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Legislative History – Montana Session Law

Chapter: 682 Session L: 1989
Bill Number: HB 535

Checklist of Bill History

History and Final Status Sheet	☒
Introduced Bill	☒
Fiscal Note	☒
Third Reading Bill	☐
Final Version of Bill	☐

House

Committee: Business & Economic
Development

Hearing Date(s): 2/13/1989

Committee Report: 2/13/1989

Senate

Committee: Finance & Claims

Hearing Date(s): 4/10/1989

Committee Report: 4/12/1989

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 8/13/2025

Notes:

Thank you!

HOUSE FINAL STATUS

2/21	3RD READING PASSED	96	1
	TRANSMITTED TO SENATE		
2/28	REFERRED TO JUDICIARY		
3/20	HEARING		
3/20	COMMITTEE REPORT--BILL CONCURRED		
3/21	2ND READING CONCURRED	49	0
3/23	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/29	SIGNED BY SPEAKER		
3/29	SIGNED BY PRESIDENT		
3/30	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 436		
	EFFECTIVE DATE: 10/01/89		

HB 535 INTRODUCED BY BROWN, J., ET AL.
REVISE MEDICARE SUPPLEMENTAL INSURANCE

2/02	INTRODUCED		
2/02	REFERRED TO APPROPRIATIONS		
2/06	REREFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/13	HEARING		
2/14	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/18	2ND READING PASSED	98	0
2/20	TAKEN FROM ENGROSSING		
2/20	REREFERRED TO APPROPRIATIONS		
3/01	HEARING		
3/18	COMMITTEE REPORT--BILL PASSED		
3/20	2ND READING PASSED	95	1
3/22	3RD READING PASSED	93	4
	TRANSMITTED TO SENATE		
3/22	REFERRED TO FINANCE & CLAIMS		
4/10	HEARING		
4/13	COMMITTEE REPORT--BILL CONCURRED		
4/14	2ND READING CONCURRED	50	0
4/17	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
4/21	SIGNED BY SPEAKER		
4/26	SIGNED BY PRESIDENT		
4/27	TRANSMITTED TO GOVERNOR		
5/16	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 682		
	EFFECTIVE DATE: 05/16/89 (S11, 16)		
	EFFECTIVE DATE: 07/01/89 (S10)		
	EFFECTIVE DATE: 10/01/89 (S1-9, 12-15)		

HB 536 INTRODUCED BY BROWN, J., ET AL.
REQUIRE PRELICENSING EDUCATION FOR INSURANCE AGENTS

2/02	INTRODUCED		
2/02	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/04	FISCAL NOTE REQUESTED		
2/08	FISCAL NOTE RECEIVED		
2/09	FISCAL NOTE PRINTED		
2/10	HEARING		
2/18	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/20	2ND READING PASSED AS AMENDED	94	2

HOUSE BILL NO. 535

INTRODUCED BY J. BROWN, CONNELLY, COHEN,
SQUIRES, QUILICI, HARDING

IN THE HOUSE

FEBRUARY 2, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON APPROPRIATIONS. FIRST READING.
FEBRUARY 3, 1989	ON MOTION BY CHIEF SPONSOR, REPRESENTATIVES SQUIRES AND QUILICI AND SENATOR HARDING ADDED AS SPONSORS.
FEBRUARY 6, 1989	ON MOTION, TAKEN FROM COMMITTEE ON APPROPRIATIONS AND REREFERRED TO COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT.
FEBRUARY 14, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 15, 1989	PRINTING REPORT.
FEBRUARY 18, 1989	SECOND READING, DO PASS.
FEBRUARY 20, 1989	ON MOTION, TAKEN FROM ENGROSSING AND REREFERRED TO COMMITTEE ON APPROPRIATIONS.
MARCH 18, 1989	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
MARCH 20, 1989	PRINTING REPORT. SECOND READING, DO PASS.
MARCH 21, 1989	ENGROSSING REPORT.
MARCH 22, 1989	THIRD READING, PASSED. AYES, 93; NOES, 4. TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 22, 1989

INTRODUCED AND REFERRED TO COMMITTEE
ON FINANCE & CLAIMS.

FIRST READING.

APRIL 13, 1989

COMMITTEE RECOMMEND BILL BE
CONCURRED IN. REPORT ADOPTED.

APRIL 14, 1989

SECOND READING, CONCURRED IN.

APRIL 17, 1989

THIRD READING, CONCURRED IN.
AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

APRIL 18, 1989

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *535*
2 INTRODUCED BY *J. Brian Connelly*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MEDICARE
5 SUPPLEMENT INSURANCE MINIMUM STANDARDS TO COMPLY WITH THE
6 FEDERAL MEDICARE CATASTROPHIC COVERAGE ACT OF 1988, P.L.
7 100-360; PROVIDING A PENALTY FOR VIOLATION OF MEDICARE
8 SUPPLEMENT INSURANCE MINIMUM STANDARDS; APPROPRIATING MONEY
9 TO THE STATE AUDITOR TO MONITOR COMPLIANCE; AMENDING
10 SECTIONS 33-16-103 AND 33-22-903 THROUGH 33-22-908, MCA; AND
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THE EXTENSION OF
12 RULEMAKING AUTHORITY."

14 STATEMENT OF INTENT

15 A statement of intent is required for this bill because
16 it authorizes the state commissioner of insurance to make
17 and amend reasonable rules relating to specific standards
18 that medicare supplement insurance policies or certificates
19 must meet, minimum standards for benefits and claims
20 payment, minimum standards for loss ratios, and the timing
21 and manner of premium adjustments. The legislature intends
22 that the rules that the commissioner adopts to implement
23 this bill be designed to allow the commissioner to comply
24 with the federal standards established by the Medicare
25 Catastrophic Coverage Act of 1988, P.L. 100-360.



1
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
3
4 **Section 1.** Section 33-16-103, MCA, is amended to read:
5
6 **"33-16-103. Application.** This chapter applies to all
7 insurers and all kinds of insurance, except that nothing
8 contained in this chapter ~~shall apply~~ applies to:
9
10 (1) life insurance;
11 (2) disability insurance, except medicare supplement
12 insurance subject to the provisions of chapter 22, part 9;
13 (3) reinsurance, except joint reinsurance as provided
14 in 33-16-307;
15 (4) insurance against loss of or damage to aircraft,
16 their hulls, accessories, and equipment, or against
17 liability, other than workers' compensation and employers'
18 liability, arising out of the ownership, maintenance, or use
19 of aircraft;
20 (5) insurance of vessels or craft, their cargoes,
21 marine builders' risks, marine protection and indemnity, or
22 other risks commonly insured under marine, as distinguished
23 from inland marine, insurance policies."
24
25 **Section 2.** Section 33-22-903, MCA, is amended to read:
26
27 **"33-22-903. Definitions.** As used in this part, the
28 following definitions apply:
29
30 (1) "Applicant" means:
31 (a) in the case of an individual medicare supplement

1 policy or subscriber contract, the person who seeks to
2 contract for insurance benefits; and

3 (b) in the case of a group medicare supplement policy
4 or subscriber contract, the proposed certificate holder.

5 (2) "Certificate" means a certificate delivered or
6 issued for delivery in this state under a group medicare
7 supplement policy ~~that--has--been--delivered-or-issued-for~~
8 ~~delivery-in-this-state~~ or subscriber contract.

9 (3) "Health care expenses":

10 (a) means expenses of a health maintenance
11 organization associated with the delivery of health care
12 services that are analogous to incurred losses of an
13 insurer;

14 (b) does not include home office and overhead costs,
15 advertising costs, commissions and other acquisition costs,
16 taxes, capital costs, administrative costs, or claims
17 processing costs.

18 (4) "Entity" means an insurer as defined in 33-1-201,
19 a health service corporation as defined in 33-30-101, and a
20 health maintenance organization as defined in 33-31-102.

21 (5) "Medicare" means Health Insurance for the Aged,
22 Title XVIII of the Social Security Amendments of 1965, as
23 then constituted or later amended.

24 (6) "Medicare supplement policy" means a group or
25 individual policy of disability insurance or a subscriber

1 contract of a health service corporation that is advertised,
2 marketed, or designed primarily as a supplement to
3 reimbursements under medicare for the hospital, medical, or
4 surgical expenses of persons eligible for medicare by reason
5 of age. The term does not include:

6 (a) a policy or contract of one or more employers or
7 labor organizations or of the trustees of a fund established
8 by one or more employers or labor organizations, or
9 combination thereof, for employees or former employees, or
10 combination thereof, or for members or former members, or
11 combination thereof, of the labor organizations; or

12 (b) a policy or contract of any professional, trade,
13 or occupational association for its members or former or
14 retired members, or combination thereof, if the association:

15 (i) is composed of individuals all of whom are
16 actively engaged in the same profession, trade, or
17 occupation;

18 (ii) has been maintained in good faith for purposes
19 other than obtaining insurance; and

20 (iii) has been in existence for at least 2 years prior
21 to the date of its initial offering of the policy or plan to
22 its members;

23 (c) individual policies or contracts issued pursuant
24 to a conversion privilege under a policy or contract of
25 group or individual insurance when the group or individual

policy or contract includes provisions that are inconsistent with the requirements of this part or policies issued to employees or members as additions to franchise plans in existence on April 8, 1981."

Section 3. Section 33-22-904, MCA, is amended to read:

"33-22-904. Standards for policy provisions -- rules.

(1) A medicare supplement insurance policy, contract, or certificate in force in this state may not contain benefits that duplicate benefits provided by medicare.

~~(1)~~(2) The commissioner shall adopt reasonable rules to establish specific standards for policy provisions of medicare supplement policies and certificates. The standards are in addition to and in accordance with applicable laws of this state, including the provisions of Title 33, chapter 22, and may cover but are not limited to:

- (a) terms of renewability;
- (b) initial and subsequent conditions of eligibility;
- (c) nonduplication of coverage;
- (d) probationary periods;
- (e) benefit limitations, exceptions, and reductions;
- (f) elimination periods;
- (g) requirements for replacement;
- (h) recurrent conditions; and
- (i) definitions of terms.

~~(2)~~(3) The commissioner may adopt reasonable rules

that prohibit policy provisions not otherwise specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy.

~~(3)~~(4) Notwithstanding any other provisions of the law, a medicare supplement policy may not deny a claim for losses incurred more than 6 months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage."

Section 4. Section 33-22-905, MCA, is amended to read:

"33-22-905. Minimum standards for benefits and payment of claims -- rules. The commissioner shall ~~issue~~ adopt reasonable rules to establish minimum standards for benefits and payment of claims for medicare supplement policies."

Section 5. Section 33-22-906, MCA, is amended to read:

"33-22-906. Loss ratio standards and filing requirements -- limits on compensation. (1) Every entity providing group medicare supplement insurance benefits to a resident of this state shall file a copy of the master policy and each certificate used in this state with the commissioner as required by 33-1-501. The filing must be

1 made not less than 60 days in advance of the delivery of any
 2 certificate or policy to a resident of this state.

3 (2) Medicare supplement policies are expected to
 4 return to policyholders benefits that are reasonable in
 5 relation to the premium charged. The commissioner shall
 6 adopt reasonable rules to establish minimum standards for
 7 loss ratios of medicare supplement policies on the basis of
 8 incurred claims experience or incurred health care expenses,
 9 where coverage is provided by a health maintenance
 10 organization on a service rather than reimbursement basis,
 11 and earned premiums for the entire period for which rates
 12 are computed to provide coverage and in accordance with
 13 accepted actuarial principles and practices. For purposes of
 14 rules adopted pursuant to this section, medicare supplement
 15 policies issued as a result of solicitations of individuals
 16 through the mail or mass media advertising, including both
 17 print and broadcast advertising, shall be treated as
 18 individual policies. Every entity providing medicare
 19 supplement insurance benefits to a resident of this state
 20 shall make premium adjustments:

21 (a) necessary to produce an expected loss ratio under
 22 the policy or contract that meets the minimum loss ratio
 23 standards for medicare supplement policies as established by
 24 rule; and

25 (b) expected to result in a loss ratio at least as

1 great as that originally anticipated by the entity when it
 2 established current premiums for the medicare supplement
 3 insurance policy or contract.

4 (3) The commissioner shall by rule establish the
 5 timing and manner of the premium adjustments. Every entity
 6 providing medicare supplement policies or certificates in
 7 this state shall annually file with the commissioner its
 8 rates, rating schedule, and supporting documentation
 9 demonstrating that it is in compliance with the applicable
 10 loss ratio standards of this part. An entity transacting
 11 medicare supplement insurance in this state may not adjust
 12 its rates more than once a year and may not adjust its rates
 13 for the first year a policy is in force, except to allow for
 14 changes in federal laws or regulations relating to medicare.
 15 Each filing of rates and rating schedules must demonstrate
 16 that the actual and expected losses in relation to premiums
 17 complies with the requirements of this part.

18 (4) An entity may not provide compensation to its
 19 agents or solicitors that is greater than the renewal
 20 compensation that would be paid on an existing policy if:

21 (a) the existing policy were replaced by another
 22 policy with the same insurer and the new policy benefits are
 23 substantially similar to the benefits under the old policy;
 24 and

25 (b) the old policy was issued by the same insurer or

1 insurance group."

2 **Section 6.** Section 33-22-907, MCA, is amended to read:

3 "33-22-907. Disclosure standards -- informational
4 brochure -- rules. (1) In order to provide for full and fair
5 disclosure in the sale of medicare supplement policies, a
6 medicare supplement policy may not be delivered or issued
7 for delivery in this state and a certificate may not be
8 delivered pursuant to a group medicare supplement policy
9 delivered or issued for delivery in this state unless an
10 outline of coverage is delivered to the applicant at the
11 time application is made. The outline of coverage must be
12 filed with the commissioner as required by 33-1-501. The
13 filing must be made at least 60 days in advance of the date
14 the outline of coverage is delivered to any resident of this
15 state.

16 (2) (a) The commissioner shall prescribe the format
17 and content of the outline of coverage required by
18 subsection (1).

19 (b) For purposes of this section, "format" means
20 style, arrangements, and overall appearance, including such
21 items as the size, color, and prominence of type and the
22 arrangement of text and captions.

23 (c) The outline of coverage must include:

24 (i) a description of the principal benefits and
25 coverage provided in the policy;

1 (ii) a statement of the exceptions, reductions, and
2 limitations contained in the policy;

3 (iii) a statement of the renewal provisions including
4 any reservation by the insurer of a right to change
5 premiums;

6 (iv) a statement that the outline of coverage is a
7 summary of the policy issued or applied for and that the
8 policy should be consulted to determine governing
9 contractual provisions.

10 (3) The commissioner may prescribe by rule a standard
11 form and the contents of an informational brochure for
12 persons eligible for medicare by reason of age, which is
13 intended to improve the buyer's ability to select the most
14 appropriate coverage and improve the buyer's understanding
15 of medicare. Except in the case of direct response
16 insurance policies, the commissioner may require by rule
17 that the information brochure be provided to any prospective
18 insureds eligible for medicare at the same time the outline
19 of coverage is delivered. With respect to direct response
20 insurance policies, the commissioner may require by rule
21 that the prescribed brochure be provided upon request, but
22 not later than the time of policy delivery, to any
23 prospective insureds eligible for medicare by reason of age.

24 (4) The commissioner may adopt reasonable rules for
25 captions or notice requirements, determined to be in the

public interest and designed to inform prospective insureds that particular insurance coverages are not medicare supplement coverages, for all accident and sickness insurance policies sold to persons eligible for medicare by reason of age, other than:

(a) medicare supplement policies;
 (b) disability income policies;
 (c) basic, catastrophic, or major medical expense policies;

(d) single premium, nonrenewable policies; or

(e) other policies defined excepted in 33-22-903~~(4)~~(6).

(5) The commissioner may further adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for medicare by reason of age.

(6) As soon as practicable, but no later than 30 days before the annual effective date of a medicare benefit change, every entity providing medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders, and certificate holders, in a format that the commissioner prescribes by rule, of the changes it has made to the medicare supplement insurance policy or contract."

Section 7. Section 33-22-908, MCA, is amended to read:

"33-22-908. Notice of free examination. ~~{1} Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation,~~ must have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the applicant has the right to return the policy or certificate within ~~10~~ 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. The insurer shall pay any refund made pursuant to this section directly to the applicant in a timely manner.

~~{2} Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for medicare by reason of age must have a notice prominently printed on the first page or attached thereto stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason."~~

NEW SECTION. Section 8. Filing requirements for advertising. Every entity or representative providing medicare supplement insurance or benefits in this state shall provide to the commissioner for his review a copy of any medicare supplement advertising intended for use in this

1 state, whether through written, radio, or television medium.

2 NEW SECTION. Section 9. Penalties. In addition to any
3 other penalties for violations of the insurance code, the
4 commissioner may after hearing require entities violating
5 any provision of or rule adopted under Title 33, chapter 16,
6 or this part to cease marketing a medicare supplement policy
7 or certificate in this state that is related directly or
8 indirectly to the violation or take such action as is
9 necessary to comply with the provisions of Title 33, chapter
10 16, or this part or the rules adopted under Title 33,
11 chapter 16, or this part, or both.

12 NEW SECTION. Section 10. Appropriation. There is
13 appropriated to the state auditor's office from the
14 insurance regulatory trust account \$25,891.00 for the fiscal
15 year ending June 30, 1990, and \$22,697.00 for the fiscal
16 year ending June 30, 1991, for one staff position to review
17 medicare supplement insurance advertising, assist with
18 preparation of the Medicare Supplement Insurance Buyer's
19 Guide, and monitor compliance with applicable federal
20 regulations.

21 NEW SECTION. Section 11. Extension of authority. Any
22 existing authority to make rules on the subject of the
23 provisions of [this act] is extended to the provisions of
24 [this act].

25 NEW SECTION. Section 12. Codification instruction.

1 [Sections 8 and 9] are intended to be codified as an
2 integral part of Title 33, chapter 22, part 9, and the
3 provisions of Title 33, chapter 22, part 9, apply to
4 [sections 8 and 9].

5 NEW SECTION. Section 13. Saving clause. [This act]
6 does not affect rights and duties that matured, penalties
7 that were incurred, or proceedings that were begun before
8 October 1, 1989.

9 NEW SECTION. Section 14. Severability. If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are
14 severable from the invalid applications.

15 NEW SECTION. Section 15. Applicability. Except as
16 otherwise specifically provided, [this act] applies to every
17 medicare supplement policy and membership contract delivered
18 or issued for delivery in this state after October 1, 1989,
19 and every certificate delivered or issued for delivery in
20 this state after October 1, 1989.

21 NEW SECTION. Section 16. Effective date. [Section 11
22 and this section] are effective on passage and approval.

-End-

RE-REFERRED AND
APPROVED BY COMM. ON BUSINESS
AND ECONOMIC DEVELOPMENT

HOUSE BILL NO. 535

INTRODUCED BY J. BROWN, CONNELLY, COHEN,
SQUIRES, QUILICI, HARDING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MEDICARE
SUPPLEMENT INSURANCE MINIMUM STANDARDS TO COMPLY WITH THE
FEDERAL MEDICARE CATASTROPHIC COVERAGE ACT OF 1988, P.L.
100-360; PROVIDING A PENALTY FOR VIOLATION OF MEDICARE
SUPPLEMENT INSURANCE MINIMUM STANDARDS; APPROPRIATING MONEY
TO THE STATE AUDITOR TO MONITOR COMPLIANCE; AMENDING
SECTIONS 33-16-103 AND 33-22-903 THROUGH 33-22-908, MCA; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THE EXTENSION OF
RULEMAKING AUTHORITY."

STATEMENT OF INTENT

A statement of intent is required for this bill because
it authorizes the state commissioner of insurance to make
and amend reasonable rules relating to specific standards
that medicare supplement insurance policies or certificates
must meet, minimum standards for benefits and claims
payment, minimum standards for loss ratios, and the timing
and manner of premium adjustments. The legislature intends
that the rules that the commissioner adopts to implement
this bill be designed to allow the commissioner to comply
with the federal standards established by the Medicare

Catastrophic Coverage Act of 1988, P.L. 100-360.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-16-103, MCA, is amended to read:

"33-16-103. **Application.** This chapter applies to all
insurers and all kinds of insurance, except that nothing
contained in this chapter ~~shall apply~~ applies to:

(1) life insurance;

(2) disability insurance, except medicare supplement
insurance subject to the provisions of chapter 22, part 9;

(3) reinsurance, except joint reinsurance as provided
in 33-16-307;

(4) insurance against loss of or damage to aircraft,
their hulls, accessories, and equipment, or against
liability, other than workers' compensation and employers'
liability, arising out of the ownership, maintenance, or use
of aircraft;

(5) insurance of vessels or craft, their cargoes,
marine builders' risks, marine protection and indemnity, or
other risks commonly insured under marine, as distinguished
from inland marine, insurance policies."

Section 2. Section 33-22-903, MCA, is amended to read:

"33-22-903. **Definitions.** As used in this part, the
following definitions apply:

(1) "Applicant" means:

(a) in the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) in the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder.

(2) "Certificate" means a certificate delivered or issued for delivery in this state under a group medicare supplement policy ~~that--has--been--delivered--or--issued--for--delivery--in--this--state~~ or subscriber contract.

(3) "Health care expenses":

(a) means expenses of a health maintenance organization associated with the delivery of health care services that are analogous to incurred losses of an insurer;

(b) does not include home office and overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, or claims processing costs.

(4) "Entity" means an insurer as defined in 33-1-201, a health service corporation as defined in 33-30-101, and a health maintenance organization as defined in 33-31-102.

{3}(5) "Medicare" means Health Insurance for the Aged, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

{4}(6) "Medicare supplement policy" means a group or

individual policy of disability insurance or a subscriber contract of a health service corporation that is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age. The term does not include:

(a) a policy or contract of one or more employers or labor organizations or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) a policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association:

(i) is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

(ii) has been maintained in good faith for purposes other than obtaining insurance; and

(iii) has been in existence for at least 2 years prior to the date of its initial offering of the policy or plan to its members;

(c) individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of

group or individual insurance when the group or individual policy or contract includes provisions that are inconsistent with the requirements of this part or policies issued to employees or members as additions to franchise plans in existence on April 8, 1981."

Section 3. Section 33-22-904, MCA, is amended to read:

"33-22-904. Standards for policy provisions -- rules.

(1) A medicare supplement insurance policy, contract, or certificate in force in this state may not contain benefits that duplicate benefits provided by medicare.

(2) The commissioner shall adopt reasonable rules to establish specific standards for policy provisions of medicare supplement policies and certificates. The standards are in addition to and in accordance with applicable laws of this state, including the provisions of Title 33, chapter 22, and may cover but are not limited to:

- (a) terms of renewability;
- (b) initial and subsequent conditions of eligibility;
- (c) nonduplication of coverage;
- (d) probationary periods;
- (e) benefit limitations, exceptions, and reductions;
- (f) elimination periods;
- (g) requirements for replacement;
- (h) recurrent conditions; and
- (i) definitions of terms.

(3) The commissioner may adopt reasonable rules that prohibit policy provisions not otherwise specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy.

(4) Notwithstanding any other provisions of the law, a medicare supplement policy may not deny a claim for losses incurred more than 6 months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage."

Section 4. Section 33-22-905, MCA, is amended to read:

"33-22-905. Minimum standards for benefits and payment of claims -- rules. The commissioner shall issue adopt reasonable rules to establish minimum standards for benefits and payment of claims for medicare supplement policies."

Section 5. Section 33-22-906, MCA, is amended to read:

"33-22-906. Loss ratio standards and filing requirements -- limits on compensation. (1) Every entity providing group medicare supplement insurance benefits to a resident of this state shall file a copy of the master policy and each certificate used in this state with the

commissioner as required by 33-1-501. The filing must be made not less than 60 days in advance of the delivery of any certificate or policy to a resident of this state.

(2) Medicare supplement policies are expected to return to policyholders benefits that are reasonable in relation to the premium charged. The commissioner shall adopt reasonable rules to establish minimum standards for loss ratios of medicare supplement policies on the basis of incurred claims experience or incurred health care expenses, where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. For purposes of rules adopted pursuant to this section, medicare supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies. Every entity providing medicare supplement insurance benefits to a resident of this state shall make premium adjustments:

(a) necessary to produce an expected loss ratio under the policy or contract that meets the minimum loss ratio standards for medicare supplement policies as established by rule; and

(b) expected to result in a loss ratio at least as great as that originally anticipated by the entity when it established current premiums for the medicare supplement insurance policy or contract.

(3) The commissioner shall by rule establish the timing and manner of the premium adjustments. Every entity providing medicare supplement policies or certificates in this state shall annually file with the commissioner its rates, rating schedule, and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this part. An entity transacting medicare supplement insurance in this state may not adjust its rates more than once TWICE a year and may not adjust its rates for the first year a policy is in force, except to allow for changes in federal laws or regulations relating to medicare. Each filing of rates and rating schedules must demonstrate that the actual and expected losses in relation to premiums complies with the requirements of this part.

(4) An entity may not provide compensation to its agents or solicitors that is greater than the renewal compensation that would be paid on an existing policy if:

(a) the existing policy were replaced by another policy with the same insurer and the new policy benefits are substantially similar to the benefits under the old policy; and

1 (b) the old policy was issued by the same insurer or
 2 insurance group."

3 **Section 6.** Section 33-22-907, MCA, is amended to read:

4 "33-22-907. Disclosure standards -- informational
 5 brochure -- rules. (1) In order to provide for full and fair
 6 disclosure in the sale of medicare supplement policies, a
 7 medicare supplement policy may not be delivered or issued
 8 for delivery in this state and a certificate may not be
 9 delivered pursuant to a group medicare supplement policy
 10 delivered or issued for delivery in this state unless an
 11 outline of coverage is delivered to the applicant at the
 12 time application is made. The outline of coverage must be
 13 filed with the commissioner as required by 33-1-501. The
 14 filing must be made at least 60 days in advance of the date
 15 the outline of coverage is delivered to any resident of this
 16 state.

17 (2) (a) The commissioner shall prescribe the format
 18 and content of the outline of coverage required by
 19 subsection (1).

20 (b) For purposes of this section, "format" means
 21 style, arrangements, and overall appearance, including such
 22 items as the size, color, and prominence of type and the
 23 arrangement of text and captions.

24 (c) The outline of coverage must include:

25 (i) a description of the principal benefits and

1 coverage provided in the policy;

2 (ii) a statement of the exceptions, reductions, and
 3 limitations contained in the policy;

4 (iii) a statement of the renewal provisions including
 5 any reservation by the insurer of a right to change
 6 premiums;

7 (iv) a statement that the outline of coverage is a
 8 summary of the policy issued or applied for and that the
 9 policy should be consulted to determine governing
 10 contractual provisions.

11 (3) The commissioner may prescribe by rule a standard
 12 form and the contents of an informational brochure for
 13 persons eligible for medicare by reason of age, which is
 14 intended to improve the buyer's ability to select the most
 15 appropriate coverage and improve the buyer's understanding
 16 of medicare. Except in the case of direct response
 17 insurance policies, the commissioner may require by rule
 18 that the information brochure be provided to any prospective
 19 insureds eligible for medicare at the same time the outline
 20 of coverage is delivered. With respect to direct response
 21 insurance policies, the commissioner may require by rule
 22 that the prescribed brochure be provided upon request, but
 23 not later than the time of policy delivery, to any
 24 prospective insureds eligible for medicare by reason of age.

25 (4) The commissioner may adopt reasonable rules for

captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not medicare supplement coverages, for all accident and sickness insurance policies sold to persons eligible for medicare by reason of age, other than:

(a) medicare supplement policies;

(b) disability income policies;

(c) basic, catastrophic, or major medical expense policies;

(d) single premium, nonrenewable policies; or

(e) other policies defined excepted in 33-22-903(4)(6).

(5) The commissioner may further adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for medicare by reason of age.

(6) As soon as practicable, but no later than 30 days before the annual effective date of a medicare benefit change, every entity providing medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders, and certificate holders, in a format that the commissioner prescribes by rule, of the changes it has made to the medicare supplement insurance

policy or contract."

Section 7. Section 33-22-908, MCA, is amended to read:

"33-22-908. Notice of free examination. ~~††~~ Medicare supplement policies or certificates, ~~other than those issued pursuant to direct response solicitation,~~ must have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the applicant has the right to return the policy or certificate within ~~10~~ 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. The insurer shall pay any refund made pursuant to this section directly to the applicant in a timely manner.

~~†2--Medicare--supplement--policies--or--certificates issued pursuant to a direct response solicitation to persons eligible for medicare by reason of age must have a notice prominently printed on the first page or attached thereto stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason."~~

NEW SECTION. Section 8. Filing requirements for advertising. Every entity or representative providing medicare supplement insurance or benefits in this state shall provide to the commissioner for his review a copy of

1 any medicare supplement advertising intended for use in this
2 state, whether through written, radio, or television medium.

3 NEW SECTION. Section 9. Penalties. In addition to any
4 other penalties for violations of the insurance code, the
5 commissioner may after hearing require entities violating
6 any provision of or rule adopted under Title 33, chapter 16,
7 or this part to cease marketing a medicare supplement policy
8 or certificate in this state that is related directly or
9 indirectly to the violation or take such action as is
10 necessary to comply with the provisions of Title 33, chapter
11 16, or this part or the rules adopted under Title 33,
12 chapter 16, or this part, or both.

13 NEW SECTION. Section 10. Appropriation. There is
14 appropriated to the state auditor's office from the
15 insurance regulatory trust account \$25,891.00 for the fiscal
16 year ending June 30, 1990, and \$22,697.00 for the fiscal
17 year ending June 30, 1991, for one staff position to review
18 medicare supplement insurance advertising, assist with
19 preparation of the Medicare Supplement Insurance Buyer's
20 Guide, and monitor compliance with applicable federal
21 regulations.

22 NEW SECTION. Section 11. Extension of authority. Any
23 existing authority to make rules on the subject of the
24 provisions of [this act] is extended to the provisions of
25 [this act].

1 NEW SECTION. Section 12. Codification instruction.
2 [Sections 8 and 9] are intended to be codified as an
3 integral part of Title 33, chapter 22, part 9, and the
4 provisions of Title 33, chapter 22, part 9, apply to
5 [sections 8 and 9].

6 NEW SECTION. Section 13. Saving clause. [This act]
7 does not affect rights and duties that matured, penalties
8 that were incurred, or proceedings that were begun before
9 October 1, 1989.

10 NEW SECTION. Section 14. Severability. If a part of
11 [this act] is invalid, all valid parts that are severable
12 from the invalid part remain in effect. If a part of [this
13 act] is invalid in one or more of its applications, the part
14 remains in effect in all valid applications that are
15 severable from the invalid applications.

16 NEW SECTION. Section 15. Applicability. Except as
17 otherwise specifically provided, [this act] applies to every
18 medicare supplement policy and membership contract delivered
19 or issued for delivery in this state after October 1, 1989,
20 and every certificate delivered or issued for delivery in
21 this state after October 1, 1989.

22 NEW SECTION. Section 16. Effective date. [Section 11
23 and this section] are effective on passage and approval.

-End-

RE-REFERRER AND
APPROVED BY COMMITTEE
ON APPROPRIATIONS

HOUSE BILL NO. 535

INTRODUCED BY J. BROWN, CONNELLY, COHEN,

SQUIRES, QUILICI, HARDING

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MEDICARE
SUPPLEMENT INSURANCE MINIMUM STANDARDS TO COMPLY WITH THE
FEDERAL MEDICARE CATASTROPHIC COVERAGE ACT OF 1988, P.L.
100-360; PROVIDING A PENALTY FOR VIOLATION OF MEDICARE
SUPPLEMENT INSURANCE MINIMUM STANDARDS; APPROPRIATING MONEY
TO THE STATE AUDITOR TO MONITOR COMPLIANCE; AMENDING
SECTIONS 33-16-103 AND 33-22-903 THROUGH 33-22-908, MCA; AND
PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THE EXTENSION OF
RULEMAKING AUTHORITY."

STATEMENT OF INTENT

A statement of intent is required for this bill because
it authorizes the state commissioner of insurance to make
and amend reasonable rules relating to specific standards
that medicare supplement insurance policies or certificates
must meet, minimum standards for benefits and claims
payment, minimum standards for loss ratios, and the timing
and manner of premium adjustments. The legislature intends
that the rules that the commissioner adopts to implement
this bill be designed to allow the commissioner to comply
with the federal standards established by the Medicare

Catastrophic Coverage Act of 1988, P.L. 100-360.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-16-103, MCA, is amended to read:

"33-16-103. **Application.** This chapter applies to all
insurers and all kinds of insurance, except that nothing
contained in this chapter ~~shall apply~~ applies to:

(1) life insurance;

(2) disability insurance, except medicare supplement
insurance subject to the provisions of chapter 22, part 9;

(3) reinsurance, except joint reinsurance as provided
in 33-16-307;

(4) insurance against loss of or damage to aircraft,
their hulls, accessories, and equipment, or against
liability, other than workers' compensation and employers'
liability, arising out of the ownership, maintenance, or use
of aircraft;

(5) insurance of vessels or craft, their cargoes,
marine builders' risks, marine protection and indemnity, or
other risks commonly insured under marine, as distinguished
from inland marine, insurance policies."

Section 2. Section 33-22-903, MCA, is amended to read:

"33-22-903. **Definitions.** As used in this part, the
following definitions apply:

(1) "Applicant" means:



(a) in the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) in the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder.

(2) "Certificate" means a certificate delivered or issued for delivery in this state under a group medicare supplement policy ~~that--has--been--delivered--or--issued--for delivery in this state~~ or subscriber contract.

(3) "Health care expenses":

(a) means expenses of a health maintenance organization associated with the delivery of health care services that are analogous to incurred losses of an insurer;

(b) does not include home office and overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, or claims processing costs.

(4) "Entity" means an insurer as defined in 33-1-201, a health service corporation as defined in 33-30-101, and a health maintenance organization as defined in 33-31-102.

~~(3)~~(5) "Medicare" means Health Insurance for the Aged, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

~~(4)~~(6) "Medicare supplement policy" means a group or

individual policy of disability insurance or a subscriber contract of a health service corporation that is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age. The term does not include:

(a) a policy or contract of one or more employers or labor organizations or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) a policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association:

(i) is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

(ii) has been maintained in good faith for purposes other than obtaining insurance; and

(iii) has been in existence for at least 2 years prior to the date of its initial offering of the policy or plan to its members;

(c) individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of

group or individual insurance when the group or individual policy or contract includes provisions that are inconsistent with the requirements of this part or policies issued to employees or members as additions to franchise plans in existence on April 8, 1981."

Section 3. Section 33-22-904, MCA, is amended to read:

"33-22-904. Standards for policy provisions -- rules.

(1) A medicare supplement insurance policy, contract, or certificate in force in this state may not contain benefits that duplicate benefits provided by medicare.

{1}(2) The commissioner shall adopt reasonable rules to establish specific standards for policy provisions of medicare supplement policies and certificates. The standards are in addition to and in accordance with applicable laws of this state, including the provisions of Title 33, chapter 22, and may cover but are not limited to:

- (a) terms of renewability;
- (b) initial and subsequent conditions of eligibility;
- (c) nonduplication of coverage;
- (d) probationary periods;
- (e) benefit limitations, exceptions, and reductions;
- (f) elimination periods;
- (g) requirements for replacement;
- (h) recurrent conditions; and
- (i) definitions of terms.

{2}(3) The commissioner may adopt reasonable rules that prohibit policy provisions not otherwise specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy.

{3}(4) Notwithstanding any other provisions of the law, a medicare supplement policy may not deny a claim for losses incurred more than 6 months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage."

Section 4. Section 33-22-905, MCA, is amended to read:

"33-22-905. Minimum standards for benefits and payment of claims -- rules. The commissioner shall issue adopt reasonable rules to establish minimum standards for benefits and payment of claims for medicare supplement policies."

Section 5. Section 33-22-906, MCA, is amended to read:

"33-22-906. Loss ratio standards and filing requirements -- limits on compensation. (1) Every entity providing group medicare supplement insurance benefits to a resident of this state shall file a copy of the master policy and each certificate used in this state with the

commissioner as required by 33-1-501. The filing must be made not less than 60 days in advance of the delivery of any certificate or policy to a resident of this state.

(2) Medicare supplement policies are expected to return to policyholders benefits that are reasonable in relation to the premium charged. The commissioner shall adopt reasonable rules to establish minimum standards for loss ratios of medicare supplement policies on the basis of incurred claims experience or incurred health care expenses, where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. For purposes of rules adopted pursuant to this section, medicare supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies. Every entity providing medicare supplement insurance benefits to a resident of this state shall make premium adjustments:

(a) necessary to produce an expected loss ratio under the policy or contract that meets the minimum loss ratio standards for medicare supplement policies as established by rule; and

(b) expected to result in a loss ratio at least as great as that originally anticipated by the entity when it established current premiums for the medicare supplement insurance policy or contract.

(3) The commissioner shall by rule establish the timing and manner of the premium adjustments. Every entity providing medicare supplement policies or certificates in this state shall annually file with the commissioner its rates, rating schedule, and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this part. An entity transacting medicare supplement insurance in this state may not adjust its rates more than once TWICE a year and may not adjust its rates for the first year a policy is in force, except to allow for changes in federal laws or regulations relating to medicare. Each filing of rates and rating schedules must demonstrate that the actual and expected losses in relation to premiums complies with the requirements of this part.

(4) An entity may not provide compensation to its agents or solicitors that is greater than the renewal compensation that would be paid on an existing policy if:

(a) the existing policy were replaced by another policy with the same insurer and the new policy benefits are substantially similar to the benefits under the old policy; and

1 (b) the old policy was issued by the same insurer or
 2 insurance group."

3 **Section 6.** Section 33-22-907, MCA, is amended to read:

4 "33-22-907. Disclosure standards -- informational
 5 brochure -- rules. (1) In order to provide for full and fair
 6 disclosure in the sale of medicare supplement policies, a
 7 medicare supplement policy may not be delivered or issued
 8 for delivery in this state and a certificate may not be
 9 delivered pursuant to a group medicare supplement policy
 10 delivered or issued for delivery in this state unless an
 11 outline of coverage is delivered to the applicant at the
 12 time application is made. The outline of coverage must be
 13 filed with the commissioner as required by 33-1-501. The
 14 filing must be made at least 60 days in advance of the date
 15 the outline of coverage is delivered to any resident of this
 16 state.

17 (2) (a) The commissioner shall prescribe the format
 18 and content of the outline of coverage required by
 19 subsection (1).

20 (b) For purposes of this section, "format" means
 21 style, arrangements, and overall appearance, including such
 22 items as the size, color, and prominence of type and the
 23 arrangement of text and captions.

24 (c) The outline of coverage must include:

25 (i) a description of the principal benefits and

1 coverage provided in the policy;

2 (ii) a statement of the exceptions, reductions, and
 3 limitations contained in the policy;

4 (iii) a statement of the renewal provisions including
 5 any reservation by the insurer of a right to change
 6 premiums;

7 (iv) a statement that the outline of coverage is a
 8 summary of the policy issued or applied for and that the
 9 policy should be consulted to determine governing
 10 contractual provisions.

11 (3) The commissioner may prescribe by rule a standard
 12 form and the contents of an informational brochure for
 13 persons eligible for medicare by reason of age, which is
 14 intended to improve the buyer's ability to select the most
 15 appropriate coverage and improve the buyer's understanding
 16 of medicare. Except in the case of direct response
 17 insurance policies, the commissioner may require by rule
 18 that the information brochure be provided to any prospective
 19 insureds eligible for medicare at the same time the outline
 20 of coverage is delivered. With respect to direct response
 21 insurance policies, the commissioner may require by rule
 22 that the prescribed brochure be provided upon request, but
 23 not later than the time of policy delivery, to any
 24 prospective insureds eligible for medicare by reason of age.

25 (4) The commissioner may adopt reasonable rules for

captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not medicare supplement coverages, for all accident and sickness insurance policies sold to persons eligible for medicare by reason of age, other than:

- (a) medicare supplement policies;
- (b) disability income policies;
- (c) basic, catastrophic, or major medical expense policies;
- (d) single premium, nonrenewable policies; or
- (e) other policies defined excepted in 33-22-903(4)(6).

(5) The commissioner may further adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for medicare by reason of age.

(6) As soon as practicable, but no later than 30 days before the annual effective date of a medicare benefit change, every entity providing medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders, and certificate holders, in a format that the commissioner prescribes by rule, of the changes it has made to the medicare supplement insurance

policy or contract."

Section 7. Section 33-22-908, MCA, is amended to read:

***33-22-908. Notice of free examination.** ~~†† Medicare supplement policies or certificates, other than those issued pursuant to direct response solicitation,~~ must have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the applicant has the right to return the policy or certificate within ~~10~~ 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. The insurer shall pay any refund made pursuant to this section directly to the applicant in a timely manner.

~~†2) Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for medicare by reason of age must have a notice prominently printed on the first page or attached thereto stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason."~~

NEW SECTION. Section 8. Filing requirements for advertising. Every entity or representative providing medicare supplement insurance or benefits in this state shall provide to the commissioner for his review a copy of

any medicare supplement advertising intended for use in this state, whether through written, radio, or television medium.

NEW SECTION. Section 9. Penalties. In addition to any other penalties for violations of the insurance code, the commissioner may after hearing require entities violating any provision of or rule adopted under Title 33, chapter 16, or this part to cease marketing a medicare supplement policy or certificate in this state that is related directly or indirectly to the violation or take such action as is necessary to comply with the provisions of Title 33, chapter 16, or this part or the rules adopted under Title 33, chapter 16, or this part, or both.

NEW SECTION. Section 10. Appropriation. There is appropriated to the state auditor's office from the insurance regulatory trust account \$25,891.00 for the fiscal year ending June 30, 1990, and \$22,697.00 for the fiscal year ending June 30, 1991, for one staff position to review medicare supplement insurance advertising, assist with preparation of the Medicare Supplement Insurance Buyer's Guide, and monitor compliance with applicable federal regulations.

NEW SECTION. Section 11. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 12. Codification instruction. [Sections 8 and 9] are intended to be codified as an integral part of Title 33, chapter 22, part 9, and the provisions of Title 33, chapter 22, part 9, apply to [sections 8 and 9].

NEW SECTION. Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before October 1, 1989.

NEW SECTION. Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 15. Applicability. Except as otherwise specifically provided, [this act] applies to every medicare supplement policy and membership contract delivered or issued for delivery in this state after October 1, 1989, and every certificate delivered or issued for delivery in this state after October 1, 1989.

NEW SECTION. Section 16. Effective date. [Section 11 and this section] are effective on passage and approval.

-End-

1 HOUSE BILL NO. 535

2 INTRODUCED BY J. BROWN, CONNELLY, COHEN,

3 SQUIRES, QUILICI, HARDING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MEDICARE
6 SUPPLEMENT INSURANCE MINIMUM STANDARDS TO COMPLY WITH THE
7 FEDERAL MEDICARE CATASTROPHIC COVERAGE ACT OF 1988, P.L.
8 100-360; PROVIDING A PENALTY FOR VIOLATION OF MEDICARE
9 SUPPLEMENT INSURANCE MINIMUM STANDARDS; APPROPRIATING MONEY
10 TO THE STATE AUDITOR TO MONITOR COMPLIANCE; AMENDING
11 SECTIONS 33-16-103 AND 33-22-903 THROUGH 33-22-908, MCA; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THE EXTENSION OF
13 RULEMAKING AUTHORITY."

14
15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because
17 it authorizes the state commissioner of insurance to make
18 and amend reasonable rules relating to specific standards
19 that medicare supplement insurance policies or certificates
20 must meet, minimum standards for benefits and claims
21 payment, minimum standards for loss ratios, and the timing
22 and manner of premium adjustments. The legislature intends
23 that the rules that the commissioner adopts to implement
24 this bill be designed to allow the commissioner to comply
25 with the federal standards established by the Medicare

1 Catastrophic Coverage Act of 1988, P.L. 100-360.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 Section 1. Section 33-16-103, MCA, is amended to read:

5 "33-16-103. Application. This chapter applies to all
6 insurers and all kinds of insurance, except that nothing
7 contained in this chapter ~~shall apply~~ applies to:

8 (1) life insurance;

9 (2) disability insurance, except medicare supplement
10 insurance subject to the provisions of chapter 22, part 9;

11 (3) reinsurance, except joint reinsurance as provided
12 in 33-16-307;

13 (4) insurance against loss of or damage to aircraft,
14 their hulls, accessories, and equipment, or against
15 liability, other than workers' compensation and employers'
16 liability, arising out of the ownership, maintenance, or use
17 of aircraft;

18 (5) insurance of vessels or craft, their cargoes,
19 marine builders' risks, marine protection and indemnity, or
20 other risks commonly insured under marine, as distinguished
21 from inland marine, insurance policies."

22 Section 2. Section 33-22-903, MCA, is amended to read:

23 "33-22-903. Definitions. As used in this part, the
24 following definitions apply:

25 (1) "Applicant" means:

(a) in the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) in the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder.

(2) "Certificate" means a certificate delivered or issued for delivery in this state under a group medicare supplement policy ~~that--has--been--delivered--or--issued--for delivery in this state~~ or subscriber contract.

(3) "Health care expenses":

(a) means expenses of a health maintenance organization associated with the delivery of health care services that are analogous to incurred losses of an insurer;

(b) does not include home office and overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, or claims processing costs.

(4) "Entity" means an insurer as defined in 33-1-201, a health service corporation as defined in 33-30-101, and a health maintenance organization as defined in 33-31-102.

(5) "Medicare" means Health Insurance for the Aged, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

(6) "Medicare supplement policy" means a group or

individual policy of disability insurance or a subscriber contract of a health service corporation that is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age. The term does not include:

(a) a policy or contract of one or more employers or labor organizations or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) a policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association:

(i) is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

(ii) has been maintained in good faith for purposes other than obtaining insurance; and

(iii) has been in existence for at least 2 years prior to the date of its initial offering of the policy or plan to its members;

(c) individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of

group or individual insurance when the group or individual policy or contract includes provisions that are inconsistent with the requirements of this part or policies issued to employees or members as additions to franchise plans in existence on April 8, 1981."

Section 3. Section 33-22-904, MCA, is amended to read:

"33-22-904. Standards for policy provisions -- rules.

(1) A medicare supplement insurance policy, contract, or certificate in force in this state may not contain benefits that duplicate benefits provided by medicare.

(2) The commissioner shall adopt reasonable rules to establish specific standards for policy provisions of medicare supplement policies and certificates. The standards are in addition to and in accordance with applicable laws of this state, including the provisions of Title 33, chapter 22, and may cover but are not limited to:

- (a) terms of renewability;
- (b) initial and subsequent conditions of eligibility;
- (c) nonduplication of coverage;
- (d) probationary periods;
- (e) benefit limitations, exceptions, and reductions;
- (f) elimination periods;
- (g) requirements for replacement;
- (h) recurrent conditions; and
- (i) definitions of terms.

(3) The commissioner may adopt reasonable rules that prohibit policy provisions not otherwise specifically authorized by statute that, in the opinion of the commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a medicare supplement policy.

(4) Notwithstanding any other provisions of the law, a medicare supplement policy may not deny a claim for losses incurred more than 6 months from the effective date of coverage for a preexisting condition. The policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage."

Section 4. Section 33-22-905, MCA, is amended to read:

"33-22-905. Minimum standards for benefits and payment of claims -- rules. The commissioner shall issue adopt reasonable rules to establish minimum standards for benefits and payment of claims for medicare supplement policies."

Section 5. Section 33-22-906, MCA, is amended to read:

"33-22-906. Loss ratio standards and filing requirements -- limits on compensation. (1) Every entity providing group medicare supplement insurance benefits to a resident of this state shall file a copy of the master policy and each certificate used in this state with the

1 commissioner as required by 33-1-501. The filing must be
 2 made not less than 60 days in advance of the delivery of any
 3 certificate or policy to a resident of this state.

4 (2) Medicare supplement policies are expected to
 5 return to policyholders benefits that are reasonable in
 6 relation to the premium charged. The commissioner shall
 7 adopt reasonable rules to establish minimum standards for
 8 loss ratios of medicare supplement policies on the basis of
 9 incurred claims experience or incurred health care expenses,
 10 where coverage is provided by a health maintenance
 11 organization on a service rather than reimbursement basis,
 12 and earned premiums for the entire period for which rates
 13 are computed to provide coverage and in accordance with
 14 accepted actuarial principles and practices. For purposes of
 15 rules adopted pursuant to this section, medicare supplement
 16 policies issued as a result of solicitations of individuals
 17 through the mail or mass media advertising, including both
 18 print and broadcast advertising, shall be treated as
 19 individual policies. Every entity providing medicare
 20 supplement insurance benefits to a resident of this state
 21 shall make premium adjustments:

22 (a) necessary to produce an expected loss ratio under
 23 the policy or contract that meets the minimum loss ratio
 24 standards for medicare supplement policies as established by
 25 rule; and

1 (b) expected to result in a loss ratio at least as
 2 great as that originally anticipated by the entity when it
 3 established current premiums for the medicare supplement
 4 insurance policy or contract.

5 (3) The commissioner shall by rule establish the
 6 timing and manner of the premium adjustments. Every entity
 7 providing medicare supplement policies or certificates in
 8 this state shall annually file with the commissioner its
 9 rates, rating schedule, and supporting documentation
 10 demonstrating that it is in compliance with the applicable
 11 loss ratio standards of this part. An entity transacting
 12 medicare supplement insurance in this state may not adjust
 13 its rates more than once TWICE a year and may not adjust its
 14 rates for the first year a policy is in force, except to
 15 allow for changes in federal laws or regulations relating to
 16 medicare. Each filing of rates and rating schedules must
 17 demonstrate that the actual and expected losses in relation
 18 to premiums complies with the requirements of this part.

19 (4) An entity may not provide compensation to its
 20 agents or solicitors that is greater than the renewal
 21 compensation that would be paid on an existing policy if:

22 (a) the existing policy were replaced by another
 23 policy with the same insurer and the new policy benefits are
 24 substantially similar to the benefits under the old policy;
 25 and

1 (b) the old policy was issued by the same insurer or
2 insurance group."

3 Section 6. Section 33-22-907, MCA, is amended to read:

4 "33-22-907. Disclosure standards -- informational
5 brochure -- rules. (1) In order to provide for full and fair
6 disclosure in the sale of medicare supplement policies, a
7 medicare supplement policy may not be delivered or issued
8 for delivery in this state and a certificate may not be
9 delivered pursuant to a group medicare supplement policy
10 delivered or issued for delivery in this state unless an
11 outline of coverage is delivered to the applicant at the
12 time application is made. The outline of coverage must be
13 filed with the commissioner as required by 33-1-501. The
14 filing must be made at least 60 days in advance of the date
15 the outline of coverage is delivered to any resident of this
16 state.

17 (2) (a) The commissioner shall prescribe the format
18 and content of the outline of coverage required by
19 subsection (1).

20 (b) For purposes of this section, "format" means
21 style, arrangements, and overall appearance, including such
22 items as the size, color, and prominence of type and the
23 arrangement of text and captions.

24 (c) The outline of coverage must include:

25 (i) a description of the principal benefits and

1 coverage provided in the policy;

2 (ii) a statement of the exceptions, reductions, and
3 limitations contained in the policy;

4 (iii) a statement of the renewal provisions including
5 any reservation by the insurer of a right to change
6 premiums;

7 (iv) a statement that the outline of coverage is a
8 summary of the policy issued or applied for and that the
9 policy should be consulted to determine governing
10 contractual provisions.

11 (3) The commissioner may prescribe by rule a standard
12 form and the contents of an informational brochure for
13 persons eligible for medicare by reason of age, which is
14 intended to improve the buyer's ability to select the most
15 appropriate coverage and improve the buyer's understanding
16 of medicare. Except in the case of direct response
17 insurance policies, the commissioner may require by rule
18 that the information brochure be provided to any prospective
19 insureds eligible for medicare at the same time the outline
20 of coverage is delivered. With respect to direct response
21 insurance policies, the commissioner may require by rule
22 that the prescribed brochure be provided upon request, but
23 not later than the time of policy delivery, to any
24 prospective insureds eligible for medicare by reason of age.

25 (4) The commissioner may adopt reasonable rules for

captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not medicare supplement coverages, for all accident and sickness insurance policies sold to persons eligible for medicare by reason of age, other than:

- (a) medicare supplement policies;
- (b) disability income policies;
- (c) basic, catastrophic, or major medical expense policies;
- (d) single premium, nonrenewable policies; or
- (e) other policies defined excepted in 33-22-903(4)(6).

(5) The commissioner may further adopt reasonable rules to govern the full and fair disclosure of the information in connection with the replacement of accident and sickness policies, subscriber contracts, or certificates by persons eligible for medicare by reason of age.

(6) As soon as practicable, but no later than 30 days before the annual effective date of a medicare benefit change, every entity providing medicare supplement insurance or benefits to a resident of this state shall notify its policyholders, contract holders, and certificate holders, in a format that the commissioner prescribes by rule, of the changes it has made to the medicare supplement insurance

policy or contract."

Section 7. Section 33-22-908, MCA, is amended to read:

"33-22-908. Notice of free examination. (1) Medicare supplement policies or certificates, ~~other than those issued pursuant to direct response solicitation,~~ must have a notice prominently printed on the first page of the policy or certificate or attached thereto stating in substance that the applicant has the right to return the policy or certificate within 10 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. The insurer shall pay any refund made pursuant to this section directly to the applicant in a timely manner.

~~(2) Medicare supplement policies or certificates issued pursuant to a direct response solicitation to persons eligible for medicare by reason of age must have a notice prominently printed on the first page or attached thereto stating in substance that the applicant has the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination, the applicant is not satisfied for any reason."~~

NEW SECTION. Section 8. Filing requirements for advertising. Every entity or representative providing medicare supplement insurance or benefits in this state shall provide to the commissioner for his review a copy of

1 any medicare supplement advertising intended for use in this
2 state, whether through written, radio, or television medium.

3 NEW SECTION. Section 9. Penalties. In addition to any
4 other penalties for violations of the insurance code, the
5 commissioner may after hearing require entities violating
6 any provision of or rule adopted under Title 33, chapter 16,
7 or this part to cease marketing a medicare supplement policy
8 or certificate in this state that is related directly or
9 indirectly to the violation or take such action as is
10 necessary to comply with the provisions of Title 33, chapter
11 16, or this part or the rules adopted under Title 33,
12 chapter 16, or this part, or both.

13 NEW SECTION. Section 10. Appropriation. There is
14 appropriated to the state auditor's office from the
15 insurance regulatory trust account \$25,891.00 for the fiscal
16 year ending June 30, 1990, and \$22,697.00 for the fiscal
17 year ending June 30, 1991, for one staff position to review
18 medicare supplement insurance advertising, assist with
19 preparation of the Medicare Supplement Insurance Buyer's
20 Guide, and monitor compliance with applicable federal
21 regulations.

22 NEW SECTION. Section 11. Extension of authority. Any
23 existing authority to make rules on the subject of the
24 provisions of [this act] is extended to the provisions of
25 [this act].

1 NEW SECTION. Section 12. Codification instruction.
2 [Sections 8 and 9] are intended to be codified as an
3 integral part of Title 33, chapter 22, part 9, and the
4 provisions of Title 33, chapter 22, part 9, apply to
5 [sections 8 and 9].

6 NEW SECTION. Section 13. Saving clause. [This act]
7 does not affect rights and duties that matured, penalties
8 that were incurred, or proceedings that were begun before
9 October 1, 1989.

10 NEW SECTION. Section 14. Severability. If a part of
11 [this act] is invalid, all valid parts that are severable
12 from the invalid part remain in effect. If a part of [this
13 act] is invalid in one or more of its applications, the part
14 remains in effect in all valid applications that are
15 severable from the invalid applications.

16 NEW SECTION. Section 15. Applicability. Except as
17 otherwise specifically provided, [this act] applies to every
18 medicare supplement policy and membership contract delivered
19 or issued for delivery in this state after October 1, 1989,
20 and every certificate delivered or issued for delivery in
21 this state after October 1, 1989.

22 NEW SECTION. Section 16. Effective date. [Section 11
23 and this section] are effective on passage and approval.

-End-

1 HOUSE BILL NO. 535

2 INTRODUCED BY J. BROWN, CONNELLY, COHEN,

3 SQUIRES, QUILICI, HARDING

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING MEDICARE
6 SUPPLEMENT INSURANCE MINIMUM STANDARDS TO COMPLY WITH THE
7 FEDERAL MEDICARE CATASTROPHIC COVERAGE ACT OF 1988, P.L.
8 100-360; PROVIDING A PENALTY FOR VIOLATION OF MEDICARE
9 SUPPLEMENT INSURANCE MINIMUM STANDARDS; APPROPRIATING MONEY
10 TO THE STATE AUDITOR TO MONITOR COMPLIANCE; AMENDING
11 SECTIONS 33-16-103 AND 33-22-903 THROUGH 33-22-908, MCA; AND
12 PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THE EXTENSION OF
13 RULEMAKING AUTHORITY."

14
15 STATEMENT OF INTENT

16 A statement of intent is required for this bill because
17 it authorizes the state commissioner of insurance to make
18 and amend reasonable rules relating to specific standards
19 that medicare supplement insurance policies or certificates
20 must meet, minimum standards for benefits and claims
21 payment, minimum standards for loss ratios, and the timing
22 and manner of premium adjustments. The legislature intends
23 that the rules that the commissioner adopts to implement
24 this bill be designed to allow the commissioner to comply
25 with the federal standards established by the Medicare

1 Catastrophic Coverage Act of 1988, P.L. 100-360.

2
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

4 Section 1. Section 33-16-103, MCA, is amended to read:

5 "33-16-103. Application. This chapter applies to all
6 insurers and all kinds of insurance, except that nothing
7 contained in this chapter ~~shall apply~~ applies to:

8 (1) life insurance;

9 (2) disability insurance, except medicare supplement
10 insurance subject to the provisions of chapter 22, part 9;

11 (3) reinsurance, except joint reinsurance as provided
12 in 33-16-307;

13 (4) insurance against loss of or damage to aircraft,
14 their hulls, accessories, and equipment, or against
15 liability, other than workers' compensation and employers'
16 liability, arising out of the ownership, maintenance, or use
17 of aircraft;

18 (5) insurance of vessels or craft, their cargoes,
19 marine builders' risks, marine protection and indemnity, or
20 other risks commonly insured under marine, as distinguished
21 from inland marine, insurance policies."

22 Section 2. Section 33-22-903, MCA, is amended to read:

23 "33-22-903. Definitions. As used in this part, the
24 following definitions apply:

25 (1) "Applicant" means:



(a) in the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) in the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder.

(2) "Certificate" means a certificate delivered or issued for delivery in this state under a group medicare supplement policy that--has--been--delivered--or--issued--for delivery--in--this--state or subscriber contract.

(3) "Health care expenses":

(a) means expenses of a health maintenance organization associated with the delivery of health care services that are analogous to incurred losses of an insurer;

(b) does not include home office and overhead costs, advertising costs, commissions and other acquisition costs, taxes, capital costs, administrative costs, or claims processing costs.

(4) "Entity" means an insurer as defined in 33-1-201, a health service corporation as defined in 33-30-101, and a health maintenance organization as defined in 33-31-102.

{3}{5} "Medicare" means Health Insurance for the Aged, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended.

{4}{6} "Medicare supplement policy" means a group or

individual policy of disability insurance or a subscriber contract of a health service corporation that is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age. The term does not include:

(a) a policy or contract of one or more employers or labor organizations or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations; or

(b) a policy or contract of any professional, trade, or occupational association for its members or former or retired members, or combination thereof, if the association:

(i) is composed of individuals all of whom are actively engaged in the same profession, trade, or occupation;

(ii) has been maintained in good faith for purposes other than obtaining insurance; and

(iii) has been in existence for at least 2 years prior to the date of its initial offering of the policy or plan to its members;

(c) individual policies or contracts issued pursuant to a conversion privilege under a policy or contract of

1 group or individual insurance when the group or individual
2 policy or contract includes provisions that are inconsistent
3 with the requirements of this part or policies issued to
4 employees or members as additions to franchise plans in
5 existence on April 8, 1981."

6 **Section 3.** Section 33-22-904, MCA, is amended to read:

7 "33-22-904. Standards for policy provisions -- rules.

8 (1) A medicare supplement insurance policy, contract, or
9 certificate in force in this state may not contain benefits
10 that duplicate benefits provided by medicare.

11 (2) The commissioner shall adopt reasonable rules
12 to establish specific standards for policy provisions of
13 medicare supplement policies and certificates. The standards
14 are in addition to and in accordance with applicable laws of
15 this state, including the provisions of Title 33, chapter
16 22, and may cover but are not limited to:

- 17 (a) terms of renewability;
- 18 (b) initial and subsequent conditions of eligibility;
- 19 (c) nonduplication of coverage;
- 20 (d) probationary periods;
- 21 (e) benefit limitations, exceptions, and reductions;
- 22 (f) elimination periods;
- 23 (g) requirements for replacement;
- 24 (h) recurrent conditions; and
- 25 (i) definitions of terms.

1 ~~(2)(3)~~ The commissioner may adopt reasonable rules
2 that prohibit policy provisions not otherwise specifically
3 authorized by statute that, in the opinion of the
4 commissioner, are unjust, unfair, or unfairly discriminatory
5 to any person insured or proposed for coverage under a
6 medicare supplement policy.

7 ~~(3)(4)~~ Notwithstanding any other provisions of the
8 law, a medicare supplement policy may not deny a claim for
9 losses incurred more than 6 months from the effective date
10 of coverage for a preexisting condition. The policy may not
11 define a preexisting condition more restrictively than a
12 condition for which medical advice was given or treatment
13 was recommended by or received from a physician within 6
14 months before the effective date of coverage."

15 **Section 4.** Section 33-22-905, MCA, is amended to read:

16 "33-22-905. Minimum standards for benefits and payment
17 of claims -- rules. The commissioner shall issue adopt
18 reasonable rules to establish minimum standards for benefits
19 and payment of claims for medicare supplement policies."

20 **Section 5.** Section 33-22-906, MCA, is amended to read:

21 "33-22-906. Loss ratio standards and filing
22 requirements -- limits on compensation. (1) Every entity
23 providing group medicare supplement insurance benefits to a
24 resident of this state shall file a copy of the master
25 policy and each certificate used in this state with the

commissioner as required by 33-1-501. The filing must be made not less than 60 days in advance of the delivery of any certificate or policy to a resident of this state.

(2) Medicare supplement policies are expected to return to policyholders benefits that are reasonable in relation to the premium charged. The commissioner shall adopt reasonable rules to establish minimum standards for loss ratios of medicare supplement policies on the basis of incurred claims experience or incurred health care expenses, where coverage is provided by a health maintenance organization on a service rather than reimbursement basis, and earned premiums for the entire period for which rates are computed to provide coverage and in accordance with accepted actuarial principles and practices. For purposes of rules adopted pursuant to this section, medicare supplement policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies. Every entity providing medicare supplement insurance benefits to a resident of this state shall make premium adjustments:

(a) necessary to produce an expected loss ratio under the policy or contract that meets the minimum loss ratio standards for medicare supplement policies as established by rule; and

(b) expected to result in a loss ratio at least as great as that originally anticipated by the entity when it established current premiums for the medicare supplement insurance policy or contract.

(3) The commissioner shall by rule establish the timing and manner of the premium adjustments. Every entity providing medicare supplement policies or certificates in this state shall annually file with the commissioner its rates, rating schedule, and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this part. An entity transacting medicare supplement insurance in this state may not adjust its rates more than once twice a year and may not adjust its rates for the first year a policy is in force, except to allow for changes in federal laws or regulations relating to medicare. Each filing of rates and rating schedules must demonstrate that the actual and expected losses in relation to premiums complies with the requirements of this part.

(4) An entity may not provide compensation to its agents or solicitors that is greater than the renewal compensation that would be paid on an existing policy if:

(a) the existing policy were replaced by another policy with the same insurer and the new policy benefits are substantially similar to the benefits under the old policy; and

1 (b) the old policy was issued by the same insurer or
2 insurance group."

3 **Section 6.** Section 33-22-907, MCA, is amended to read:

4 "33-22-907. Disclosure standards -- informational
5 brochure -- rules. (1) In order to provide for full and fair
6 disclosure in the sale of medicare supplement policies, a
7 medicare supplement policy may not be delivered or issued
8 for delivery in this state and a certificate may not be
9 delivered pursuant to a group medicare supplement policy
10 delivered or issued for delivery in this state unless an
11 outline of coverage is delivered to the applicant at the
12 time application is made. The outline of coverage must be
13 filed with the commissioner as required by 33-1-501. The
14 filing must be made at least 60 days in advance of the date
15 the outline of coverage is delivered to any resident of this
16 state.

17 (2) (a) The commissioner shall prescribe the format
18 and content of the outline of coverage required by
19 subsection (1).

20 (b) For purposes of this section, "format" means
21 style, arrangements, and overall appearance, including such
22 items as the size, color, and prominence of type and the
23 arrangement of text and captions.

24 (c) The outline of coverage must include:

25 (i) a description of the principal benefits and

1 coverage provided in the policy;

2 (ii) a statement of the exceptions, reductions, and
3 limitations contained in the policy;

4 (iii) a statement of the renewal provisions including
5 any reservation by the insurer of a right to change
6 premiums;

7 (iv) a statement that the outline of coverage is a
8 summary of the policy issued or applied for and that the
9 policy should be consulted to determine governing
10 contractual provisions.

11 (3) The commissioner may prescribe by rule a standard
12 form and the contents of an informational brochure for
13 persons eligible for medicare by reason of age, which is
14 intended to improve the buyer's ability to select the most
15 appropriate coverage and improve the buyer's understanding
16 of medicare. Except in the case of direct response
17 insurance policies, the commissioner may require by rule
18 that the information brochure be provided to any prospective
19 insureds eligible for medicare at the same time the outline
20 of coverage is delivered. With respect to direct response
21 insurance policies, the commissioner may require by rule
22 that the prescribed brochure be provided upon request, but
23 not later than the time of policy delivery, to any
24 prospective insureds eligible for medicare by reason of age.

25 (4) The commissioner may adopt reasonable rules for

1 captions or notice requirements, determined to be in the
2 public interest and designed to inform prospective insureds
3 that particular insurance coverages are not medicare
4 supplement coverages, for all accident and sickness
5 insurance policies sold to persons eligible for medicare by
6 reason of age, other than:

- 7 (a) medicare supplement policies;
- 8 (b) disability income policies;
- 9 (c) basic, catastrophic, or major medical expense
10 policies;
- 11 (d) single premium, nonrenewable policies; or
- 12 (e) other policies defined excepted in
13 33-22-903(4)(6).

14 (5) The commissioner may further adopt reasonable
15 rules to govern the full and fair disclosure of the
16 information in connection with the replacement of accident
17 and sickness policies, subscriber contracts, or certificates
18 by persons eligible for medicare by reason of age.

19 (6) As soon as practicable, but no later than 30 days
20 before the annual effective date of a medicare benefit
21 change, every entity providing medicare supplement insurance
22 or benefits to a resident of this state shall notify its
23 policyholders, contract holders, and certificate holders, in
24 a format that the commissioner prescribes by rule, of the
25 changes it has made to the medicare supplement insurance

1 policy or contract."

2 **Section 7.** Section 33-22-908, MCA, is amended to read:

3 "33-22-908. Notice of free examination. (1) Medicare
4 supplement policies or certificates, ~~other than those issued~~
5 ~~pursuant to direct response solicitation~~, must have a notice
6 prominently printed on the first page of the policy or
7 certificate or attached thereto stating in substance that
8 the applicant has the right to return the policy or
9 certificate within ~~10~~ 30 days of its delivery and to have
10 the premium refunded if, after examination of the policy or
11 certificate, the applicant is not satisfied for any reason.
12 The insurer shall pay any refund made pursuant to this
13 section directly to the applicant in a timely manner.

14 ~~(2) Medicare supplement policies or certificates~~
15 ~~issued pursuant to a direct response solicitation to persons~~
16 ~~eligible for medicare by reason of age must have a notice~~
17 ~~prominently printed on the first page or attached thereto~~
18 ~~stating in substance that the applicant has the right to~~
19 ~~return the policy or certificate within 30 days of its~~
20 ~~delivery and to have the premium refunded if, after~~
21 ~~examination, the applicant is not satisfied for any reason."~~

22 **NEW SECTION. Section 8.** Filing requirements for
23 advertising. Every entity or representative providing
24 medicare supplement insurance or benefits in this state
25 shall provide to the commissioner for his review a copy of

any medicare supplement advertising intended for use in this state, whether through written, radio, or television medium.

NEW SECTION. Section 9. Penalties. In addition to any other penalties for violations of the insurance code, the commissioner may after hearing require entities violating any provision of or rule adopted under Title 33, chapter 16, or this part to cease marketing a medicare supplement policy or certificate in this state that is related directly or indirectly to the violation or take such action as is necessary to comply with the provisions of Title 33, chapter 16, or this part or the rules adopted under Title 33, chapter 16, or this part, or both.

NEW SECTION. Section 10. Appropriation. There is appropriated to the state auditor's office from the insurance regulatory trust account \$25,891.00 for the fiscal year ending June 30, 1990, and \$22,697.00 for the fiscal year ending June 30, 1991, for one staff position to review medicare supplement insurance advertising, assist with preparation of the Medicare Supplement Insurance Buyer's Guide, and monitor compliance with applicable federal regulations.

NEW SECTION. Section 11. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 12. Codification instruction.

[Sections 8 and 9] are intended to be codified as an integral part of Title 33, chapter 22, part 9, and the provisions of Title 33, chapter 22, part 9, apply to [sections 8 and 9].

NEW SECTION. Section 13. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before October 1, 1989.

NEW SECTION. Section 14. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 15. Applicability. Except as otherwise specifically provided, [this act] applies to every medicare supplement policy and membership contract delivered or issued for delivery in this state after October 1, 1989, and every certificate delivered or issued for delivery in this state after October 1, 1989.

NEW SECTION. Section 16. Effective date. [Section 11 and this section] are effective on passage and approval.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By Rep. Bob Pavlovich, on February 13, 1989, at 9:30 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Paul Verdon and Sue Pennington

Announcements/Discussion: None

DISPOSITION OF HOUSE BILL 536

Motion: None

Amendments, Discussion, and Votes: Rep. Thomas said there is a companion bill to this what we call the single licensure bill. A lot of it fits together with this bill. It is a very lengthy bill and will take time getting up here. It fits right to this bill. We intended to get them in here together but have not been able to get the other bill up here. I would like to hold this bill for a couple of days.

Rep. Bachini asked if the bills fit together. Rep. Thomas said they do not fit into the same bill. It deals with single licensure, rather than being licensed several times in the state, you are licensed only once. Rep. Bachini asked if the education and all was in it. Rep. Thomas said the education was not in it. Rep. Thomas said they should be looked at together, pass both not just one or the other. This is why I would like to hold HB 536.

Recommendation and Vote: None

DISPOSITION OF HOUSE BILL 559

Motion: Rep. Bachini moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 559 DO PASS.

DISPOSITION OF HOUSE BILL 577

Motion: Rep. Simon moved DO PASS and moved the amendment.

Amendments, Discussion, and Votes: On page 7, line 2, strike out federal. The amendment DO PASS.

Recommendation and Vote: HB 577 DO PASS as amended.

DISPOSITION OF HOUSE BILL 355

Motion: Rep. Kilpatrick moved DO PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: HB 355 DO PASS.

DISPOSITION OF HOUSE BILL 539

Motion: Rep. Nelson moved to table HB 539.

Amendments, Discussion, and Votes: Rep. Blotkamp wanted to know how we would enforce putting a carbon monoxide monitor around in rental units. The enforcement seems to be the biggest problem. I think something should be done but as far as this bill goes it makes a statement that an inspection was made but it can't guarantee that inspection for any length of time after that initial inspection and I would like to see it as a do not pass.

Rep. Bachini said he had a good friend that was an inspector, he said he would put his name on the slip for that day only, it does not guarantee the safety of the furnace one year later or several months later. I see a big problem, the inspector will be at high risk for putting his name on that paper. There needs to be something done, but I'm not sure just what.

Rep. Kilpatrick agreed that this will be difficult to enforce. If you can just get it started and going even if it is just once a year, at least they get checked that once a year. Some of these old places have probably never been looked at by an inspector.

Rep. Nelson thinks this will create more problems than it will solve and I move to table the bill.

Recommendation and Vote: HB 539 was tabled on a 10-6 vote.

DISPOSITION OF HOUSE BILL 287

Motion: Rep. McCormick moved DO NOT PASS.

Amendments, Discussion, and Votes: Rep. Simon moved the statement of intent into the bill. The statement of intent DO PASS. Rep. McCormick moved DO NOT PASS as amended.

Recommendation and Vote: HB 287 DO NOT PASS as amended 15-1 vote.

DISPOSITION OF HOUSE BILL 521

Motion: Rep. Thomas moved DO PASS and moved the amendments.

Amendments, Discussion, and Votes: With the permission of the committee Tom Hopgood explained the amendments. He explained that this was a bill that came from the Great Falls Realty. Rep. Simon questioned whether this would constitute newspapers and other periodicals as brokers of real estate since it says you can't advertise unless you are a broker. After discussions after the meeting and after speaking with Rep. Simon and Chuck Walk of the Montana Newspaper Association and Rep. Good we come up with these amendments which we think will solve the problem of having a newspaper being licensed in order to run real estate advertising. We also cleaned up other language that the board of realtors wanted cleaned up.

Rep. Simon stated that he approved of most of the amendments being offered, but I think we still have a problem on page one of the amendments in subsection 3(b). Rep. Simon would like to segregate this subsection (b) and deal with it separately and would like to amend this part out. Rep. Pavlovich said we will take subsection 3(b) on page one out and just consider the rest of the amendments.

The rest of the amendments DO PASS. Now, Rep. Pavlovich said we will consider subsection 3(b). Rep. Simon asked if we voted no if subsection 3(b) if it would be out of the bill completely. Rep. Thomas said this was all new language and wants to know if we revert to the old bill. Rep. Thomas withdrew his motion to amend subsection 3(b). New language 3(b) is out of the bill. Rep. Simon moved to strike 3(b) of the bill and renumber subsequent sections.

Rep. Pavlovich asked for any further discussion, question called for. The amendments DO PASS.

Rep. Bachini asked what happens now to the people that are in business By Owner? Rep. Simon said as I understand this bill now, if you are strictly in the advertising business where you take information about somebody's house and put it

in a booklet and make it available to other buyers, you are exempt from this bill. But, if you say we will help you with the financing, counselling about how to sell you home, all that sort of thing, you have stepped over the line by this bill and you have to have a broker's license. This bill allows advertising you to be in the business of saying contact Rep. Bachini, he has a house you would be interested in, that contact comes from the magazine only. Rep. Bachini also wanted to know how many people were in this business and would be affected by the bill when it goes into effect on October 1, 1989. Mr. Hopgood said they are in the larger cities of Montana. What they are doing is performing the services that are rendered by licensed real estate brokers who are regulated by the state.

Recommendation and Vote: HB 521 DO PASS as amended
unanimously.

HEARING ON HOUSE BILL 535

Presentation and Opening Statement by Sponsor:

Rep. Brown stated that this bill will revise medicare supplement insurance minimum standards to comply with the federal medicare catastrophic coverage act of 1988; provides a penalty for violation of medicare supplement insurance minimum standards' appropriates money to the state auditor to monitor compliance; amends sections 33-16-103 and 33-22-903 through 33-22-908, MCA; and provides an immediate effective date for the extension of rulemaking authority.

Testifying Proponents and Who They Represent:

Tanya Ask, State Auditor's Office
Judith Carlson, Montana Senior Citizens Assoc.

Proponent Testimony:

See exhibit 1 for Ms. Ask's written testimony.

Ms. Carlson stated that her association very much supports HB 535. Three things in this bill they find particularly helpful are: the requirement of non duplication of medicare benefits; 30 days to renew policy; and the printing of the medicare supplemental guide.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Wallin asked Ms. Ask if a person could buy a policy to cover the deductible? She said yes.

Rep. Nelson asked Ms. Ask if when talking about entity or representative I see a redundancy. Every contract I have with insurance companies requires me to have all of my advertising approved by that insurance company before I join them. If I read this right I would have to get my advertising approved again as an agent which means a double approval. Do you read it that way? Ms. Ask said you are correct in the fact that it is redundant.

Closing by Sponsor: Rep. Brown stated that she did close.

HEARING ON HOUSE BILL 611

Presentation and Opening Statement by Sponsor:

Rep. Connelly stated that HB 611 will provide that protests against the issuance or transfer of an alcoholic beverage license may be made only by residents of the county from which the application for a license comes; and amends section 16-4-207, MCA.

Testifying Proponents and Who They Represent:

Paul Derrow
Roger Tippy
Sen. Pete Story

Proponent Testimony:

Mr. Derrow said that he and his wife bought the Stanton Creek Bar from the owner. The state had taken the liquor license away from the owner so we bought the place without any license at all. We managed to get a beer and wine license and applied to get an all-beverage license. We were accepted but a friend of the previous owner, in Canada, decided he would file a protest against us getting a license. He felt that we should not be allowed to get a license until the court decided if the previous owner would get his license back. Then at that time we would have the option to buy this license. I feel that it is unfair that a person living in another country could have the right to oppose me getting a license in Flathead County, when he was not a resident of the county or country.

Sen. Story said his involvement was that he handled a project that took him around the state last summer. He stopped in this place and heard about the problems of the new owner. Since then the new owner has received his license. It points out that if any fundamentalist religious group anywhere in the country heard about our laws, they

could protest every liquor license transfer in the state and cause all sorts of problems and a bad situation for our residents. If the bill is passed I will carry it in the Senate.

Mr. Tippy stated that he was neither an opponent or proponent. He had some amendments to the bill and passed copies out to the committee. He went over the amendments.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Kilpatrick asked if a person who previously had the license and didn't pay his bill and he skips out and they want to sell or transfer the license, the next guy can't get the license until the old bill is paid for. Looks like he is being punished. Mr. Tippy said the reason to protest, nothing is going to change hands from the buyer who wants the license to the seller, is that the distributor who has money coming, can intercept some of that before it all goes in the seller's pocket. The buyer can just deduct the amount of the bill from what he pays the seller.

Rep. Bachini asked Mr. Tippy how long does a wholesaler extend their credit? Mr. Tippy said they are limited to 7 days. What does a wholesaler do at the end of 7 days if he isn't paid. Mr. Tippy said the wholesaler will stop delivering beer to that account.

Rep. Pavlovich asked Mr. Tippy asked if we amend it to residents of the state of Montana instead of just by county? Mr. Tippy said if there were a problem it would solve it.

Rep. Blotkamp asked Rep. Connelly asked if there were other problems like this one. She said there might have been in the past, but she just knows of this particular case.

Closing by Sponsor: Rep. Connelly said she closed.

DISPOSITION OF HOUSE BILL 535

Motion: Rep. Thomas moved DO PASS.

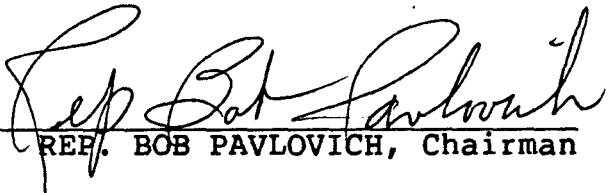
Amendments, Discussion, and Votes: Rep. Nelson said he wanted to make an amendment to the bill in section 8, page 12, line 22, strike the two words "or representative". The amendment DO PASS. Rep. Nelson moved an amendment to page 8,

line 12 to strike "once" and insert "twice". The amendment
DO PASS.

Recommendation and Vote: HB 535 DO PASS as amended unanimously.

ADJOURNMENT

Adjournment At: 11:05 a.m.


REP. BOB PAVLOVICH, Chairman

BP/sp

3703.min

DAILY ROLL CALL

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date 2 13 89

NAME	PRESENT	ABSENT	EXCUSED
PAVLOVICH, BOB	✓		
DeMARS, GENE	✓		
BACHINI, BOB	✓		
BLOTKAMP, ROB	✓		
HANSEN, STELLA JEAN	✓		
JOHNSON, JOHN	✓		
KILPATRICK, TOM	✓		
MCCORMICK, LLOYD "MAC"	✓		
STEPPLER, DON	✓		
GLASER, BILL	✓ Late		
KELLER, VERNON	✓		
NELSON, THOMAS	✓		
SIMON, BRUCE	✓		
SMITH, CLYDE	✓		
THOMAS, FRED	✓		
WALLIN, NORM	✓		
PAUL VERDON	✓		

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 535 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION:

do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 521 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Steppler		
Fred Thomas		
Norm Wallin		

TALLY

16

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 577 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

15

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass as amended

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 355 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

15

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass by Rep. Kilpatrick

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/18/89 BILL NO. 559 NUMBER

NAME	AYE	NAY
Bob Pavlovich		
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Stepler		
Fred Thomas		
Norm Wallin		

TALLY

15

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do pass

ROLL CALL VOTE

BUSINESS AND ECONOMIC DEVELOPMENT

COMMITTEE

DATE 2/13/89 BILL NO. 287 NUMBER

NAME	AYE	NAY
Bob Pavlovich		X
Bob Bachini		
Rob Blotkamp		
Gene DeMars		
Bill Glaser		
Stella Hansen		
John Johnson		
Vernon Keller		
Tom Kilpatrick		
Lloyd McCormick		
Thomas Nelson		
Bruce Simon		
Clyde Smith		
Don Steppler		
Fred Thomas		
Norm Wallin		

TALLY

15

1

Sue Pennington
Secretary

Bob Pavlovich
Chairman

MOTION: do not pass as amended

2/14/89
2:30 pm
[initials]

STANDING COMMITTEE REPORT

February 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 535 (first reading copy -- white) do pass as amended .

Signed: Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 8, line 12.

Strike: "once"

Insert: "twice"

2. Page 12, line 22.

Strike: "or representative"

STANDING COMMITTEE REPORT

February 14, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 521 (first reading copy -- white) do pass as amended .

Signed: Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 1, line 19.

Following: "~~same~~"

Insert: "valuable"

2. Page 1, line 20.

Strike: "advertising,"

3. Page 1, line 24, through page 2, line 4.

Strike: subsections (b) and (c) in their entirety

Renumber: subsequent subsections

4. Page 2, line 6.

Strike: "advertising,"

5. Page 2, line 14.

Strike: "advertising,"

6. Page 2, line 18.

Strike: "or"

7. Page 2, line 23.

Following: "lease"

Insert: ";

(e) aids, attempts, or offers to aid for a fee any person in locating or obtaining any real estate for purchase or lease; or

(f) advertises or holds himself out as engaged in any of the activities referred to in subsections (3) (a) through (3) (f) "

8. Page 4, line 8.

Following: "~~single~~"

Insert: "(1)"

9. Page 4, line 16.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections on page 4, line 22, and page 5,
lines 2, 5, 8, 16, 18, and 24

10. Page 6, line 4.

Following: line 3

Insert: "(2) The provisions of this chapter do not apply to a
newspaper or other publication of general circulation or to
a radio or television station engaged in the normal course
of business."

2/14/89
2:20 pm
jal

STANDING COMMITTEE REPORT

February 14, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 577 (first reading copy -- white) do pass as amended.

Signed: 

Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 7, line 2.
Strike: "federal,"

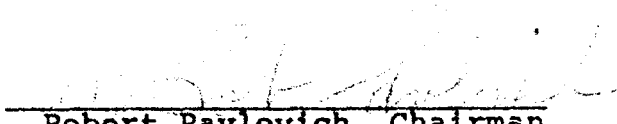
2/12/89
11:30 AM
ja

STANDING COMMITTEE REPORT

February 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 355 (first reading copy -- white) do pass.

Signed: 
Robert Pavlovich, Chairman

2/13/89
11:58 am
ja

STANDING COMMITTEE REPORT

February 13, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 559 (first reading copy -- white) do pass.

Signed: _____

Robert Pavlovich, Chairman

2-13-89
12:30p
7.0

STANDING COMMITTEE REPORT

February 13, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that HOUSE BILL 287 (first reading copy -- white), with statement of intent attached, do not pass as amended .

Signed: _____
Robert Pavlovich, Chairman

And, that such amendments read:

1. Page 1, line 11.

Following: line 10

Insert:

"

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 5] grants rulemaking authority to the department of commerce to adopt rules governing the administration of the Massage Therapy Licensing Act. It is intended that the rules address at least the following:

(1) requirements of any contract entered with a licensed massage therapist or professional massage therapy association for the purposes contemplated in [section 5 (2) (a)];

(2) approval of programs of continuing education required under [section 5 (2) (b)]. It is intended that such programs require, at a minimum, attendance at two seminars or workshops within a 3-year period. The rules may also address the

2-13-89
12.00p.
X. 9.
February 13, 1989
Page 2 of 2

possibility of requiring reexamination of licensees after a 5-year period of licensure, in the interests of continuing education.

(3) the form and manner of application required for licensure of massage therapists;

(4) establishment of an annual expiration date of licenses as contemplated in [section 10]; and

(5) establishment of appropriate fees for application, examination, reexamination, license issuance, and license renewal, as outlined in [section 11].

HOUSE BILL NO. 521

Section 1. Section 37-51-102, MCA, is amended to read:

"37-51-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Account" means the real estate recovery account established in 37-51-501.

(2) "Board" means the board of realty regulation provided for in 2-15-1867.

(3) "Broker" includes an individual who:

(a) for another or for a fee, commission, or other valuable consideration or who with the intent or expectation of receiving the same VALUABLE consideration negotiates or attempts to negotiate the advertising, listing, sale, purchase, rental, exchange, or lease of real estate or of the improvements thereon on real estate or collects rents or attempts to collect rents;

(b) FOR ANOTHER OR FOR VALUABLE CONSIDERATION OR WITH THE INTENT OR EXPECTATION OF RECEIVING VALUABLE CONSIDERATION obtains and organizes information from a potential seller OR LESSOR of real estate or refers the name of a potential buyer of real estate; or AND MAKES SUCH INFORMATION AVAILABLE TO POTENTIAL BUYERS OR LESSEES OF REAL ESTATE;

(c) FOR ANOTHER OR FOR VALUABLE CONSIDERATION OR WITH THE EXPECTATION OF RECEIVING VALUABLE CONSIDERATION REFERS THE NAME OF A POTENTIAL BUYER, SELLER OR LESSOR OR LESSEE OF REAL ESTATE TO A PERSON LICENSED UNDER THIS CHAPTER.

(d) is employed by or on behalf of the owner or lessor of real estate to conduct the advertising, sale, leasing, subleasing, or other disposition thereof at a salary or of real estate for a fee, commission, or any other consideration; The term "broker" also includes an individual

(e) who engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract by which he undertakes primarily to promote the advertising, sale, lease, or other disposition of real estate in this state through its listing in a publication issued primarily for this purpose or for referral of information concerning real estate to brokers; or

(f) makes the advertising, sale, lease, or other real estate information available by public display to potential buyers or both; and any person who aids, attempts, or offers to aid, for a fee, any person in locating or obtaining any real estate for purchase or lease.

(g) AIDS, ATTEMPTS, OR OFFERS TO AID FOR A FEE, ANY PERSON IN LOCATING OR OBTAINING ANY REAL ESTATE FOR PURCHASE OR LEASE; OR

(h) (h) advertises or holds himself out as engaged in any of the foregoing activities;--The term "broker" also includes an individual referred to in subsections (3)(a) or THROUGH (3)(b) (h);

(4) "Broker associate" means a broker who associates with a broker owner and does not own an interest in a real estate firm.

(5) "Broker owner" means a broker who owns or has a financial interest in a real estate firm.

(6) "Department" means the department of commerce provided for in Title 2, chapter 15, part 18.

(7) "Franchise agreement" means a contract or agreement by which:

(a) a franchisee is granted the right to engage in business under a marketing plan prescribed in substantial part by the franchisor;

(b) the operation of the franchisee's business is substantially associated with the franchisor's trademark, trade name, logotype, or other commercial symbol or advertising designating the franchisor; and

(c) the franchisee is required to pay, directly or indirectly, a fee for the right to operate under the agreement.

(8) "Person" includes individuals, partnerships, associations, and corporations, foreign and domestic, except that when referring to a person licensed under this chapter, it means an individual.

(9) "Real estate" includes leaseholds as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold and whether the real estate is situated in this state or elsewhere.

(10) "Salesman" includes an individual who for a salary, commission, or compensation of any kind is associated, either directly, indirectly, regularly, or occasionally, with a real estate broker to sell, purchase, or negotiate for the sale, purchase, exchange, or renting of real estate."

Section 2. Section 37-51-103, MCA, is amended to read:

"37-51-103. Exemptions. A single (1) An act performed for ~~a-commission-or~~ compensation of any kind in the buying, selling, exchanging, leasing, or renting of real estate or in negotiating therefor for others, except as ~~hereinafter~~ specified in this section, shall constitute the person performing any of such the acts a real estate broker or real estate salesman. The provisions of this chapter, ~~however, shall not~~ SHALL not:

(a) ~~{1}~~ apply to any person who, as owner or lessor, shall perform any ~~of the aforesaid~~ acts listed in subsection (1) with reference to property owned or leased by himself or to an auctioneer employed by the owner or lessor to aid and assist in conducting a public sale held by such the owner or lessor;

(b) ~~{2}~~ apply to any person acting as attorney-in-fact under the duly executed power of attorney from the owner of any real estate authorizing the final consummation of any contract for the purchase, sale, exchange, renting, or leasing of any real estate;

(c) ~~{3}~~ be construed to include in any way the services rendered by any attorney at law in the performance of his duty as such an attorney at law;

(d) ~~(4)~~ apply to any person duly appointed by a court for purpose of evaluation or appraising an estate in a probate matter;

(e) ~~(5)~~ be held to include, while acting as such, a receiver, a trustee in bankruptcy, an administrator or executor, any person selling real estate under order of any court, a trustee under a trust agreement, deed of trust, or will, or an auctioneer employed by a receiver, trustee in bankruptcy, administrator, executor, or trustee to aid and assist in conducting a public sale held by any such the officer;

(f) ~~(6)~~ apply to public officials in the conduct of their official duties;

(g) ~~(7)~~ apply to any person, partnership, association, or corporation, foreign or domestic, performing any act with respect to prospecting, leasing, drilling, or operating land for hydrocarbons and hard minerals or disposing of any hydrocarbons, hard minerals, or mining rights therein, whether upon a royalty basis or otherwise; or

(h) ~~(8)~~ apply to persons acting as managers of housing complexes for low-income persons, which are subsidized, directly or indirectly, by this state or an agency or subdivision thereof or by the government of the United States or an agency thereof.

(2) THE PROVISIONS OF THIS CHAPTER SHALL NOT APPLY TO ANY NEWSPAPER OR OTHER PUBLICATION OF GENERAL CIRCULATION OR TO ANY RADIO OR TELEVISION STATION ENGAGED IN THE NORMAL COURSE OF BUSINESS."

NEW SECTION. Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

Amendments to House Bill No. 535
First Reading Copy

For the Committee on House Business and Economic Development

Prepared by Paul Verdon
February 13, 1989

1. Page 8, line 12.

Strike: "once"

Insert: "twice"

2. Page 12, line 22.

Strike: "or representative"

Amendments to House Bill No. 521
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 13, 1989

1. Page 1, line 19.

Following: "~~same~~"

Insert: "valuable"

2. Page 1, line 20.

Strike: "advertising,"

3. Page 1, line 24, through page 2, line 4.

Strike: subsections (b) and (c) in their entirety

Renumber: subsequent subsections

4. Page 2, line 6.

Strike: "advertising,"

5. Page 2, line 14.

Strike: "advertising,"

6. Page 2, line 18.

Strike: "or"

7. Page 2, line 23.

Following: "lease"

Insert: ";

(e) aids, attempts, or offers to aid for a fee any person in locating or obtaining any real estate for purchase or lease; or

(f) advertises or holds himself out as engaged in any of the activities referred to in subsections (3)(a) through (3)(f)"

8. Page 4, line 8.

Following: "~~single~~"

Insert: "(1)"

9. Page 4, line 16.

Strike: "(1)"

Insert: "(a)"

Renumber: subsequent subsections on page 4, line 22, and page 5, lines 2, 5, 8, 16, 18, and 24

10. Page 6, line 4.

Following: line 3

Insert: "(2) The provisions of this chapter do not apply to a newspaper or other publication of general circulation or to a radio or television station engaged in the normal course of business."

Amendments to House Bill No. 577
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 13, 1989

1. Page 7, line 2.
Strike: "federal,"

#1
2/13/89

House Bill 535

Testimony
Submitted by Tanya Ask
Montana Insurance Department
February 13, 1989

This bill represents an overhaul of Montana's current Medicare Supplement Minimum Standards Act. Medicare supplement policies are those purchased by individuals eligible for the federal medicare program who wish to supplement the disability insurance coverage they receive through the federal program.

Congress passed the federal Medicare Catastrophic Coverage Act last year, and with that act's changes to medicare, it becomes necessary for Montana to amend its minimum standards. I will go through this bill section by section.

Section 1 amends our rate filing requirements. Currently disability insurance, health insurance encompassing medicare supplement, is exempt from any type of rate filing requirement. Medicare supplement insurance will be an exception to the rule. The reason--there must be a "reasonable return" on policies sold--reasonable return meaning there shall now be minimum standards not only for benefits provided under a policy, but also claims payments under the policy. Benefits returned to consumers must be reasonable in relation to the premium charged.

Section 2 amends the definitional section of our current minimum standards act. Several definitions have either been added or amended. Those are:

(2) Certificate--under the proposed bill, the definition of certificate is expanded from a certificate issued under a policy "delivered or issued for delivery" in Montana to any certificate delivered or issued for delivery in this state. The difference is important because it recognizes many Montanans are covered under contracts issued in another state, but they have purchased the individual certificate, their coverage, here.

(3) Health care expenses--a new definition which recognizes the advent of health maintenance organizations (HMO's) in providing health benefits to senior citizens covered by Medicare.

(4) Entity--a new definition which incorporates any type of organization offering medicare supplement insurance coverage to Montana residents. The three types of organizations are traditional commercial insurers, health service corporations and health maintenance organizations.

Subsequent definitions were renumbered.

Section 3 amends existing law, "Standards for policy provisions". Additions or changes to current law are as follows:

(1) A new section which prohibits any product offered as medicare supplement from duplicating benefits provided by the federal medicare program.

(2) this section requires rules to specify medicare supplement insurance policy or certificate provisions. The term "certificate" is added by this bill, again recognizing many individuals are covered by a policy issued in another state, but the individual purchased their insurance here.

Subsequent sections again are renumbered.

Section 4 amends existing law, "Minimum standards for benefits and payment of claims". The bill will require the commissioner to not only adopt rules specifying minimum policy benefits, but also minimum standards for claims payments under the insurance coverage.

Section 5 adds quite a bit to "Loss ratio standards and filing requirements--limits on compensation".

(1) This section requires the filing of group policies with the commissioner's office 60 days in advance of any coverage marketing to residents of this state. Under current law, there is no requirement that policies issued outside Montana must be filed in Montana, even if coverage is going to be marketed here. (The commissioner does have the authority to request copies of the out of state group policy, but the request is made after coverage has been sold to Montana residents.) This section requires filing only, not prior approval of the forms, which is required if the policy itself is to be sold in Montana.

(2) This section has been amended to take into account medicare supplement coverage provided by a health maintenance organization. More detailed attention is also paid to loss ratios of medicare supplement insurance. The reason for loss ratio standards is to insure that companies are paying out a certain level of premiums collected in claims payments. Loss ratio standards will be established by rule.

(3) Timing and the manner in which insurers adjust the price of coverage will be set by administrative rule. Price changes are limited to once a year but for changes in federal laws or regulations, such as federal changes in medicare benefits. This will provide some stability to individual insureds if they know they can count on the price not changing more than once a year.

(4) If an agent replaces a policy with another by the same insurer and the benefits are substantially similar, the amount of compensation received for the new policy is not to be greater than the renewal compensation under the replaced policy. This is to avoid agents' rolling insureds from one policy to another simply to gain the first year commission.

Section 6. "Disclosure standards--informational brochure--rules". Three changes have been made to this statutory section by House Bill 535. Those are as follows:

(1) Outlines of coverage must be filed with the commissioner prior to use under the general forms filing law, 33-1-501, MCA. The outlines of what coverage is provided are to be given to the insurance applicant at the time the application is taken.

(4) Subsection 4 is amended to reflect a previous numbering change and "defined" is changed to "excepted".

(6) Adds a requirement that insurers providing medicare supplement coverage provide their insureds with at least 30 days advance notice of any changes made to the insurance policy or contract.

Section 7. "Notice of free examination". This section applies a 30 day free look period to all medicare supplement insurance coverage. Under current law a 10 day free look is required if coverage is sold by an agent, and 30 days if the coverage was directly solicited, such as mail order insurance coverage. The purpose of a free look is to give the applicant time to evaluate what has actually been purchased. The applicant does not get a chance to see the full contract of coverage until it is delivered, so really cannot decide if it is what he or she wants until that time.

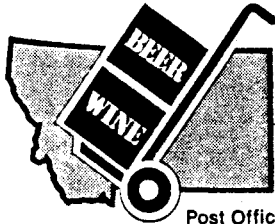
Section 8. "Filing requirements for advertising". This section is new with House Bill 535, and requires advertising material to be filed with the insurance department. It does not require approval or prior approval. This is a section in which Congress was very interested when it passed the Medicare Catastrophic Coverage Act of 1988.

Section 9. "Penalties". This section provides penalties for violation of the rate filing law and the minimum standards provisions.

Section 10. "Appropriations". The bill establishes a statutory appropriation to assist with the additional responsibilities required under this act and the two pieces of federal legislation impacting medicare supplement insurance.

The rest of the bill contains general provisions covering such things as applicability, extension of rulemaking authority and so forth.

INS 511 (7-9)



Montana
Beer & Wine
Wholesalers
Association

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#1
2/13/81
HB 611

House Bill 611 by Connelly et al.

Requested Amendments

1. Title, p. 1, line 7
Following: COMES
Insert: "or by certain creditors"
2. Sec. 1, p. 1, line 21
Following: comes
Insert: "or by a wholesaler who has extended credit to the transferor under 16-3-243 or 16-3-406"
3. Sec. 1, p. 2, line 22
Following: comes
Insert: "or by a wholesaler who has extended credit to the transferor under 16-3-243 or 16-3-406"
4. Sec. 1, p. 2, line 11
Following: county,
Insert: "or by a wholesaler who has extended credit to the transferor under 16-3-243 or 16-3-406,"

Directors:

BRIAN CLARK, Kalispell
BOB CLAUSEN, Helena
JOHN DECKER, Billings
JERRY JOHNSON, Lewistown

WAYNE SMITH, CPA, Helena
Galusha, Higgins & Galusha
Treasurer

BILL WATKINS, Missoula
President

JIM THOMPSON, Butte
Vice-President

Directors:

CHUCK LEE, Kalispell
DALE MARKOVICH, Butte
KARL REMBE, Great Falls

WITNESS STATEMENT

NAME JUDITH CARLSON BUDGET _____

ADDRESS HELENA

WHOM DO YOU REPRESENT? MT. SR CITIZENS ASSN

SUPPORT HB 535 OPPOSE _____ AMEND _____

COMMENTS: _____

MUCH NEEDED TO INSURE UNIFORM
STANDARDS & TO PROTECT SENIORS.

ESPECIALLY LIKE:

1. - NON-DUPPLICATION
2. - 30 DAYS TO REVIEW POLICY
3. - MEDICARE SUPP GUIDE

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Business

BILL NO.

535

611

DATE _____

2/13/89

SPONSOR

J. Brown

Connelly

Please put
bill number. Th

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By Chairman Story, on April 10, 1989, at
8:00 a.m. in Room 108 at the State Capitol.

ROLL CALL

Members Present: Senator Gary Aklestad, Senator Loren
Jenkins, Senator Esther Bengtson, Senator Matt Hims1,
Senator Paul Boylan, Senator Tom Keating, Senator Judy
Jacobson, Senator H.W. "Swede" Hammond, Senator Pat
Regan, Senator Larry Tveit, Senator Fred Van
Valkenburg, Senator Dennis Nathe, Senator Greg
Jergeson, Senator Gerry Devlin, Senator Richard
Manning, Senator Sam Hofman, Senator Lawrence Stimatz,
Senator Ethel Harding, Senator Pete Story

Members Excused: Senator Esther Bengtson, Senator H.W.
Hammond

Members Absent: None

Staff Present: Clayton Schenck, LFA

Announcements/Discussion: None

HEARING ON HOUSE BILL 535

Presentation and Opening Statement by Sponsor:

Representative Jan Brown, HD 46, Helena stated that HB
535 is the Medicare Supplement Bill. It revises the
Montana Medicare Insurance Minimum Standard's Act to
bring it into compliance with federal legislation.

List of Testifying Proponents and What Group they Represent:

Stuart Doggett, State Auditor's Office

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Stuart Doggett stated that HB 535 contains a statutory
appropriations section of current level \$35,891 for the
first fiscal year and \$22,697 for the second fiscal

year. That was derived from the cost of adding a grade 12. First year costs are higher because equipment purchase is necessary. Due to the two federal acts of Medicare Catastrophic Health Act of 1988 and the Omnibus Budget Reconciliation Act of 1987, additional duties are now required to be carried out by each state insurance department. These include reviewing all medicare supplements, insurance advertising in the state, and review and collection of information on the filings of all medicare supplement providers. Each state's medicare supplement plan must be certified or the state can lose its certification for failure to report or maintain the federal standards. HB 535 will make certain Montana does not lose its certification.

Questions From Committee Members: Senator Pat Regan asked Mr. Doggett why this is a statutory regulation, why is it not just an appropriation. Mr. Doggett stated that this was not included in the original budget proposal. This was specifically separated out because standards were imposed by Congress.

Senator Regan asked Mr. Doggett if this appropriation was just going to happen once. Mr. Doggett stated that this isn't actually a statutory appropriation, it is an appropriation within the bill. It is for each year of the next biennium.

Senator Himsel asked Mr. Doggett if the purpose of this was for an audit or policing of this new catastrophic program. Mr. Doggett stated this bill is to make sure that responsibilities are carried out.

Senator Himsel stated that the Wall Street Journal reports a \$10 Million scandal in the Medicare/Medicaid program that is being investigated in Washington involving all insurance companies and asked if this was part of that policing effort. Mr. Doggett stated that he was not familiar with that case.

Senator Keating asked Mr. Doggett if the state auditor's office was going to have enough of these policies to keep one person busy for two years. Mr. Doggett said yes.

Senator Keating asked Cheryl Fowler of the State Auditor's office if there was anyone in the office capable of doing this job. She said that there was a person doing such a job.

Closing by Sponsor: Representative Jan Brown thanked the committee for hearing the bill.

HEARING ON HOUSE BILL 320

Presentation and Opening Statement by Sponsor:

Representative John Mercer of HD 50 stated that this bill was introduced at the request of the House Judiciary Committee. This bill deals with computer funding for the judiciary. The judiciary is lacking far behind all other entities of government as well as the private sector in the use of computers, she stated. As an example in Polson every lawyer in the Judicial district, including those operating out of their houses, have computers. But the district judge has a typewriter. That is not the way to operate anything dealing with law in the modern age.

List of Testifying Proponents and What Group they Represent:

Jim Oppedahl, Supreme Court
Clara Gilreath, District Court of Lewis & Clark County
Charmaine Fisher, Yellowstone County Clerk of Court
Russell McDonough, Supreme Court

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jim Oppedahl left a booklet on the "Commission of the Use of Appropriate Technology in the Montana Judiciary". See blue pages of Exhibit #1.

Clara Gilreath stated she was in favor of this bill. It will help our office to be more efficient and it is one way we can save money, she stated.

Charmaine Fisher stated that the Yellowstone County Commissioners are in favor of computerizing and are willing to put some money into that project. Carbon paper is still used even with the largest court in the state. The large books are very difficult to work with. She urged the committee to vote favorably on the bill.

Justice Russell McDonough stated that before district judges can calendar properly they need the raw data before them and it has to be on the computer. Since it takes so much time to assemble the information, computers make the job more efficient.

Questions From Committee Members: Senator Manning asked if there was a bill at the present time for coordination of computers for state government. Senator Pete Story stated that there was a bill to have the legislative branches coordinate their computers.

Senator Devlin asked Mr. Oppedahl how much money has been spent so far on this project. Mr. Oppedahl stated that the Commission on Technology was something created by the court after a Board of Crime Control grant was received for a computerization study. The grant was about \$13,000.

Senator Devlin asked Mr. Oppedahl about the meetings of the Commission. Mr. Oppedahl stated the Commission needs to exist within the Supreme Court on a permanent basis. They need to meet once or twice a year but could not be permanent without funding.

Senator Aklestad asked Jim Oppedahl about the cost in the past. Mr. Oppedahl stated that the grant was \$13,000 through the Justice Department. It was a start-up cost of having the meetings and appointing people on the Commission to the National Technology Conference in Denver which included five meetings of the Commission in 1987 and part of 1988.

Senator Aklestad mentioned that on page 2, line 7-8 the bill states 6 meetings per year and asked if this would increase by one and would the money be requested to properly fund those meetings. Mr. Oppedahl stated that as the bill was originally introduced there was specific funding for the Commission meetings. That was struck by the House but they would try and do it in less than six meetings per year.

Senator Aklestad asked Representative Mercer why the money was reduced in the original bill. Representative Mercer stated that the bill originally had three purposes. To have the meetings, to set up law clerks in Helena to help district judges in the outlying areas and money for the boards and commission. These were cut by the House. They left in the language for the meetings but they would have to find another way to fund it.

Senator Aklestad asked Representative Mercer about the funding for the FTE's. Representative Mercer stated that it is for the two system analysts.

Senator Nathe asked Representative Mercer when Clerks of Court and Justices meet. Representative Mercer stated

that they meet annually.

Senator Nathe asked Representative Mercer if they could discuss computers and Representative Mercer stated that they could. The bill is designed to have system analysts (experts) who will suggest uniform software programs and uniform computers.

Senator Regan asked Representative Mercer if this bill was lower than the district court or does it stop at district court. Representative Mercer stated that it is designed for the entire judiciary. The Supreme Court is already computerized but district, justice, city and clerks of courts are not yet computerized. They all can benefit from computers but the focus is on the district court because those are the courts of record.

Senator Keating asked Jim Oppedahl if the computer system jump from books to computers and skips the micro film and micro fiche and just uses computer storage. Mr. Oppedahl stated that the computerization is to run the operations of the office as they are instead of having all kinds of books. Those records will all be computerized. If the records of the Clerk and Records office are on computer these records will be available to the judge.

Senator Keating asked about the Westlaw computer system. Mr. Oppedahl stated that a computer system would be developed slowly and cautiously and that the Clerk of the District Court and the Judge needs to be taken care of first.

Senator Story stated that it was important to have a system where a crooked attorney could not hire a hacker to create a computer virus. Mr. Oppedahl stated that standards and safeguards needed to be developed now to avoid that. Senator Story stated he thinks the legislature should also be involved so as to not in any way risk records.

Senator Story asked about the Board of Crime Control budget and the grant process. Senator Himsl, who is on the Board of Crime Control, stated that the grants of money had specific purposes for which the funds must be used.

Senator Jenkins asked Mr. Oppedahl how much the program would cost if the bill passed whether the money would be passed on to the counties. Mr. Oppedahl stated that training and setting up would be ongoing. The costs in this are for two pilot projects with \$50,000 for the

first year and almost nothing in the second. Buying additional equipment in future years is not anticipated.

Senator Jenkins asked Mr. Oppedahl about a coordinated system and the costs. Mr. Oppedahl stated that for a coordinated system the counties are going to have to buy into that. Once these office have received equipment they can eliminate most of their cost. There is a long-term efficiency savings in this system.

Senator Story asked Mr. Oppedahl if the smaller counties that had less court activity were required to have one of those large books. Mr. Oppedahl stated that they will last a lot longer in the small counties and some of those counties would not need to move away from the book. It is up to the county.

Senator Devlin asked Charmaine Fisher about fewer people in the office if it were computerized. She stated that she did not know if her office could operate with less people. Computerization would just make things more efficient.

Closing by Sponsor: Representative Mercer stated that computers are coming and you can't stop them. They are so efficient and every other place in government has them. The counties are going to buy them and it is a question of whether you want it to be in a uniform fashion for the free exchange of information. That will be a lot more cost-efficient.

HEARING ON HOUSE BILL 329

Presentation and Opening Statement by Sponsor:

Representative Daily, HD 69 stated the purpose of this bill is to hire an Upper Clark Fork Coordinator. This person would be in addition to the Clark Fork Coordinator in the Governors Office. This position would be funded with a grant from the R.I.T. Water Development account or the R.I.T. Reclamation account. He pointed out the seriousness of the situation in the Clark Fork River Basin. The Clark Fork River Superfund Site is the largest superfund site in the nation. The mine flooding that has taken place in Butte-Silver Bow along with the Berkeley Pit flooding is the largest mine flooding that has ever taken place in the world. He described how the water in the Berkeley Pit had risen about 700 feet since the mine pumps were shut down in 1982. The water in the mines in the Butte Hill had risen over 3,000 feet since the water was shut off

in 1982. He noted that not only was this a Butte problem it is a Northwest problem also since Silver Bow Creek is the headwaters for the Clark Fork River and the Columbia River Basin. The problem will eventually get to the Columbia River Basin if nothing is done. In Butte there is an area called the West Camp and an area called the East Camp. The water in the West Camp was within 20 feet of contaminating Silver-Bow Creek in December. It is heavily contaminated with arsenic and exceeds all state and federal standards.

List of Testifying Proponents and What Group they Represent:

Ted Duaime, Montana Bureau of Mines & Geology
Jim Johnston, Butte-Silver Bow Government
Marvin Miller, Montana Bureau of Mines & Geology
Ole Yolan, Resource Conservation Development
Agriculture Water Committee

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Ted Duaime showed a slide presentation to show the need for an Upper Clark Fork Basin Coordinator. He also passed out a leaflet which showed the situation in the Berkeley Pit. See Exhibit #2.

Ole Yolan stated that farmers and ranchers are concerned with the water supply that comes from this source for agriculture use. Those people in the Upper Clark Fork need someone in local government who can relate to their needs.

Jim Johnston stated that Butte-Silver Bow is one of the largest superfund sites in the country. In the past two years Butte-Silver Bow has had a reclamation board funded through an R.I.T. grant. Through the efforts of the reclamation coordinator three major projects have been completed in the reclamation area. (He passed around a picture.) Included in the duties of the reclamation coordinator is developing criteria for reclamation projects. In the past week the EPA has issued an order to the PRP mine water pumping. The owner identifies two options as far as the pumping is concerned. (1) Construction of a treatment facility and (2) pumping and utilizing the Butte-Silver Bow waste water treatment plant. The PRP chooses to utilize the water treatment plant. If so, a number of daily, weekly and monthly tests will be required to

insure Butte-Silver Bow's compliance with state and federal water quality standards. This coordinator will perform those tests. The coordinator's position is imperative as far as being able to improve the drainage from the Clark Fork River Basin, he stated.

Senator Stimatz stated that the Columbia River starts in Butte, Montana. That is the contaminated stream. This contamination began back in 1900. There are heavy metal deposits that leach into the creek. Representative Daily has been very instrumental in getting EPA to move. The EPA has the Butte-Silver Bow superfund site listed as the largest one in America. Without this project, devastating results on the Clark Fork River can occur, he said.

Marvin Miller stated that they view this position as more of a technical coordinator. The EPA is involved and has had eight to 15 consultants in Butte per year. Each of the responsible parties (the companies) have their consultants. As a result, all kinds of activities and data from all these consultants have been collected.

Questions From Committee Members: Senator Nathe asked Representative Daily if he has a problem with the Bureau of Mines hiring this person. Representative Daily stated he did not. The problem is that the Bureau of Mines has spent a lot of time on this project in the last couple of years. They have other projects they need to do. But we need, more than anything else, is somebody to stay on top of it and do it on a daily basis. It will take two years to build a treatment plant and pump.

Senator Nathe asked Marvin Miller where this water comes from. He replied that the amount of water coming in is about 3,000 gallons a minute from the hill. There is another sizeable portion coming from the leach pad operations. Butte imports about 18 million gallons a day (all of its water). They figured the pit is increasing by 7.6 million gallons per day.

Senator Nathe asked Marvin Miller what they did with the water in the past. He replied that in the early days they just let it go. In the 60's they created the opportunity ponds where the water was dumped into the creek and they added lime to raise the ph and drop the metal. Then, when they started the leaching operation, they pumped the water back to the leach pads. It was called a closed system. Then when they shut down

mining, it all has to drain.

Senator Boylan stated that this has been studied to death but that treatment was the best answer. Representative Daily stated that was the answer but it hadn't been easy to get EPA to respond. Hopefully, through enough pressure EPA will start working on the project. The EPA solution to this problem is to study it for two more years. That is not the answer but that is their solution.

Senator Keating stated that the Department of Health is charged with the authority for implementation of superfund areas. He asked if this had been designated as a superfund area and what was the Department of Health doing in this area. Representative Daily stated he was unsure that the Dept. of Health was involved. There are different agencies in charge of the sites.

Senator Van Valkenburg asked Mr. Haffer, the Governor's Clark Fork Basin Coordinator, what was being done on the state level to get a handle on this problem. Mr. Haffer stated that the state has a technical lead on all the projects but need an enforcement lead and House Bill 385 would give the state that authority. Then the state will inform the PRP's to start clean up of the area.

Senator Story asked Carroll South of the LFA if there was any money and if not, what projects get bumped and what is the effect on other projects if this is passed. He replied that the way it has been amended it would only be funded after the other grants in the other bills have been funded. But there is an option to transfer funding from the reclamation of the development fund, which is broke, to water development which will have \$500,000 available. So if the Dept. of Natural Resources transfers this grant over to water development and they use the accrual accounting system, there will be funding for it without bumping other projects.

Senator Aklestad asked Representative Daily how much authority could the state assume in relationship to SB 385. Representative Daily stated that this is the federal government's problem because it has been declared a superfund site. The Health Department has become a lead agency in this project, but it does not give the state the responsibility.

Senator Aklestad asked what the original water table was. Marvin Miller stated that in 1890 there were slews all

over the Silver Bow Creek and that was the original water level. The whole pit area there has been heavily mined and broken so it will probably not rise quite as high as it would have in 1890. It will actually come close to draining out of the lip of the pit into the creek and out. It has to exit the basin. There is a very low evapo-transportation in the Butte area.

Senator Story asked if the mountain was full of mineralization was it also full of dangerous water. Mr. Miller replied that when oxygen is added to the system the water turns to sulfuric acid. As long as that process takes place it generates vast quantities of sulfuric acid which makes the water very acidic and puts most all the metals in solution.

Senator Himsl asked Representative Daily if the party had been identified as the responsible party in this superfund site. Representative Daily said that in some areas it had. On the west camp the Atlantic Richfield Company and also Washington Corporation had been identified.

Closing by Sponsor: Representative Daily stated that if the money was received, he was sure that something would be done and the state and the government would benefit.

HEARING ON HOUSE BILL 772

Presentation and Opening Statement by Sponsor:

Representative Simpkins that this bill is the funding mechanism to expand the federal surplus property program for the state of Montana. This is a program to dispose of property that is in excess to the needs of the federal government. Most of it comes from military resources and is given away free to state governments and agencies that qualify to accept the property. In 1987 the donations of property valued \$408.9 Million. See Exhibit.

List of Testifying Proponents and What Group they Represent:

Lyle Nagel, Montana State Volunteer Fire Fighters

List of Testifying Opponents and What Group They Represent:

Testimony:

Lyle Nagel stated that this U.S. military property is a God-send for the fire service. When the federal surplus property was available to Montana a lot of things

needed could be found. But now without that surplus office it has created a problem. He pointed out one problem with excess property was that it is accountable for five years and the federal government can call that property back any time within that five years. But once you get surplus property under this bill it is yours and you must retain it for 18 months.

Questions From Committee Members: Senator Boylan asked what will be done with the people in this program who were doing nothing. Representative Simpkins stated they are looking for new people. A separate bureau run by itself solely for this purpose is needed.

Senator Van Valkenburg asked Marvin Eicholtz what the administration's view is in respect to this bill. Mr. Eicholtz stated that the Governor's position was to support the present stockless federal surplus program but were not opposed to this program and would enforce it if this legislation went through.

Closing by Sponsor: Representative Simpkins stated that he feels the money being asked for is only \$150,000 with a proprietary account which is \$100,000 and gives a spending authority of \$250,000 eventually building up. It would be up to the Governor to determine which department would be best capable to manage this program.

HEARING ON HOUSE BILL 759

Presentation and Opening Statement by Sponsor:

Representative Helen O'Connell of HD 40 stated that the health and welfare of citizens and economic development was very important. This bill meets both concerns and is designed to assist medical research facilities, new or established, in the state, she said. Unlike other economic development bills, this bill provides support only after the necessary federal funding is obtained. This bill would assist organizations that can meet the requirements to develop or expand their facilities in Montana. This will create good jobs. It will also provide an opportunity for much-needed bio-medical research to be done in the state of Montana.

List of Testifying Proponents and What Group they Represent:

Senator Gene Thayer, SD 19
Senator Jerry Noble, SD 21
Representative Susan Good, HD 36
Ardi Aiken, Mayor, Great Falls
Mike Labriola, Great Falls Chamber of Commerce

William J. Douner, McLaughlin Research Institute,
Great Falls
Peter J. Wettstein, McLaughlin Research Institute
Lisa Palmer, Great Falls
Ann Teros, Ft. Benton
Steve Huntington, Montana Science and Technology
Alliance
Morris Brown, McLaughlin Research Institute
Kay Foster, Billings Chamber of Commerce
Representative Jerry Nesbit, HD 35
Ted Neuman, Great Falls School Districts
Senator Richard Manning, SD 18

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Senator Thayer wanted the committee to remember that \$2 Million will not be spent unless there is a federal grant. Without the commitment from the state the chances of getting that grant are non-existent. This is a very good project because the federal dollars are going to be re-directed back into Montana for construction as well as the on-going operation. The researchers bring with them their federal grants. Jobs would be created for 350 - 400 people. The economic impact of this would be well worth the effort.

Senator Noble stated that this is a very exciting thing going on over in Great Falls. It is a very well-managed program.

Representative Susan Good stated that if every state had an economic wish-list the key ingredients would be that industry would be clean, high tech, provide substantial paying jobs and be efficient. The facilities described in HB 759 adequately and magnificently fulfill all those wishes.

Ardi Aiken stated the need for economic development in the state of Montana is second to none. This bill offers one opportunity to make something positive happen in the state of Montana. Great Falls is attempting to expand the existing bio-medical research institute. This is not a high-risk business, it is economic development waiting to happen. With the availability of these funds through the science and tech alliance, a clean industry can be expanded and ultimately employ some 300 people.

Mike Labriola stated that this legislation is good for Great Falls as well as the state of Montana. In Montana we are bucking the national economic trends. This legislation flows with the national economic trends.

William Douner stated that the idea of HB 759 grew out of the McLaughlin Research. During the past year we have attracted two primary research scientists to Great Falls. The McLaughlin Research Institute has become one of the great success stories in that area. A show of support for this program is needed. It will be an opportunity for jobs for young people in Montana.

Peter Wettstein wanted to talk about science. The field of bio-medical research has undergone a tremendous transformation in the last 20 years. This bill will facilitate collaborative ventures. The discipline of molecular biology has made tremendous contributions to the knowledge of the genetic control of disease, development and the immune system. These advances have been made possible because of the bio-medical research explosion experience in the last 10 years. This study can reverse adverse affects. There has been an extensive specialization in research. Because of so much information being discovered, scientists are now specializing. If major projects are to progress, they will do so through the collaboration of scientists with diverse, but overlapping interests. So research institutes must expand and diversify.

Lisa Palmer stated she supported HB 759. She attended Montana College of Mineral Science and Technology for four years. She graduated from MSU in 1988 with a degree in biological sciences. This bill directly affects her as well as graduates like her. She wishes to remain in Montana and she wants to pursue a career in research. She is currently employed at the McLaughlin Research Institute in Great Falls. Over 60% of science graduates in Montana are forced to leave Montana. She has lost friends and family to Colorado, Texas, California, Washington and Alaska. All of these Montana residents wanted to remain in the state but were forced to leave. This bill would keep educated young professionals in this state.

An Tuos has been a research assistant at the McLaughlin Research Institute for about six months and supports HB 759.

Steve Huntington stated his support for HB 759. The goals and criteria spelled out for operating the grant fit

very will with things done in the past.

Morris Browny left his testimony. See Exhibit 4 - 4a.

Representative Bill Strizich stated his support of HB 759. This bill offers great job opportunities for Great Falls.

Kay Foster stated that Great Falls asked them to come and support this bill. She brought a testimony from the Deaconess Research Institute. See Exhibit #5.

Representative Jerry Nesbit stated his support for HB 759.

Ted Neuman stated his support of HB 759. Over the last four or five years he worked on several economic development projects. Once the first industry is started then the spin-off industries follow. The interaction between the industries can be very beneficial.

Senator Dick Manning stated new industry is needed to create jobs and this is the opportunity. He urged support of this bill.

Questions From Committee Members: Senator Jergeson asked if the proponents of the measure would have an objection to providing some amendment to this bill that would seek private monies to match the state contribution. Mrs. Foster stated that there were other pilot funds available. The funding for the program of the McLaughlin Institute depends very much on federal match because of the way other monies are used. Mr. Morris Browning stated that there will be private money. Part of these monies will be needed for the relocation investigator.

Senator Keating asked if there would be a return on the \$2 Million investment that goes out into the private sector. It was answered that it is directed to be a grant without monetary return.

Senator Van Valkenburg asked Mr. Huntington if he had been involved with providing funding for Chromati-chem in the Missoula area and Immuni-chem. Mr. Huntington stated they have invested in Chromati-Chem, a private company but not Immuni-chem. These companies and McLaughlin Institute are both involved in the bio-technology field and there is something of a relationship. The product line that Chromati-chem works on is a process that might used in some of the analysis used in the McLaughlin Institute. They are

related but not the same.

Senator Van Valkenburg stated that it is his understanding that one of the reasons Chromati-chem is located in Missoula is because of the biological research done at the University of Montana. He was concerned with is the long-term relationship between the university system and this research that is going on. If it turns out that the McLaughlin Institute gets \$10 Million of federal money and \$2 Million from the state, how would that tie in with university system work. Would this be laying the ground-work for a university unit in Great Falls. Mr. Huntington stated that there is a great deal of difference between what the university systems bio-technology centers of excellence does and what McLaughlin does. Having a quasi-private research center would be of value to the private sector as well as the university system. The goals of a private organization and a university system are not the same.

Senator Van Valkenburg asked Dr. Wettstein to comment also. Dr. Wettstein stated that he is interested in having graduate students and they will teach courses. He said they did not have an intention of becoming a university or a college. They are scientists do research but don't see getting into competition with the university system.

Senator Himsl asked Morris Browning if this was a facility or a construction of a program. He replied that it was a facility. The research program would be put into that building and it is already funded. The investigator initiates the program that he wants to be researched. Then that program is submitted to the National Institute of Health for review. They fund that program.

Senator Himsl asked Morris Browning if this will be an educational activity and will people from i.e. University of Washington, be invited in to do research. Mr. Browning stated that people will be recruited because of the complimentary nature of their research to the research that is already on-going. He said they also plan to create opportunities for visiting investigators who want to plan a sabbatical for six months or so.

Ardy Aiken clarified the first question to Senator Himsl about money for construction. The \$2 Million will not be used to construct the building. It will be used for the purchase of the necessary equipment needed to do the research by the researchers.

Closing by Sponsor: Representative O'Connell stated that this will help the entire state and the surrounding states.

ADJOURNMENT

Adjournment At: 11:50 a.m.

A handwritten signature in dark ink, appearing to read "Pete Story", is written over a horizontal line.

Senator PETE STORY, Chairman

FCS410

DAILY ROLL CALL

FINANCE AND CLAIMS

COMMITTEE - 1989

DATE 4-10-89

NAME	PRESENT	ABSENT	EXCUSED
Senator Gary Aklestad	✓		
Senator Loren Jenkins	✓		
Senator Esther Bengtson			✓
Senator Matt Himsl	✓		
Senator Paul Boylan	✓		
Senator Tom Keating	✓		
Senator Judy Jacobson	✓		
Senator H.W. "Swede" Hammond		✓	
Senator Pat Regan	✓		
Senator Larry Tveit	✓		
Senator Fred Van Valkenburg	✓		
Senator Dennis Nathe	✓		
Senator Greg Jergeson	✓		
Senator Gerry Devlin	✓		
Senator Richard Manning	✓		
Senator Sam Hofman	✓		
Senator Lawrence Stimatz	✓		
Senator Ethel Harding	✓		
Senator Pete Story	✓		

SENATE JUDICIAL COMMITTEE
FILE NO. 1
DATE 4-10-89
FILE NO. HB 320

COMMISSION ON THE USE OF APPROPRIATE
TECHNOLOGY IN THE MONTANA JUDICIARY
REPORT AND RECOMMENDATIONS TO THE
MONTANA SUPREME COURT

DECEMBER 1988

SENATE COMMITTEE ON
 2
 4-10-87
 EXHIBIT
 DATE
 HB 321
 BILL NO.

CROSS SECTION LOOKING WEST

SOUTH

NORTH

WEED CONCENTRATOR

BELMONT EL. 5659'

KELLEY EL. 5959'

RIM EL. 5520' (LOW)

BEDROCK-ALLUVIAL CONTACT (5320-5270)

WATER LEVEL ON 12-09-87
 WATER LEVEL ON 12-05-86
 WATER LEVEL ON 11-25-85
 WATER LEVEL ON 11-30-84

12/28/88

WATER LEVEL

4996

4935'
 4857'
 4757'
 4630'

WATER LEVEL ON 11-10-83

PIT BOTTOM

4320'

4286'

WATER LEVEL ON 07-28-83

4029'

WATER LEVEL ON 12-02-82

3447'

FLOOD START ON 4-23-82

2195'

BELMONT BOTTOM EL. 1875'

KELLEY BOTTOM EL. 1111'

6000

5000

4000

3000

2000

1000

ESTIMATED FIVE YEAR OPERATING BUDGET FY 90-94
FEDERAL SURPLUS PROPERTY PROGRAM
REP. SIMKINS

3
3
4-10-89
HB77

	FY 90	FY 91	FY 92	FY 93	FY 94
REVENUE					
Start Up Loan	\$150,000	\$0	\$0	\$0	\$0
Administrative Fee	\$100,000	\$250,000	\$300,000	\$300,000	\$300,000
TOTAL REVENUE	\$250,000	\$250,000	\$300,000	\$300,000	\$300,000
EXPENDITURES					
FTE	4.00	4.00	4.00	4.00	4.00
Personal Services	\$93,765	\$93,765	\$93,765	\$93,765	\$93,765
Operating Expenses					
Travel and Freight	\$30,000	\$60,000	\$85,000	\$85,000	\$85,000
Rent	\$50,000	\$50,000	\$50,000	\$50,000	\$50,000
Refurbishing	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Miscellaneous	\$25,000	\$20,000	\$25,000	\$25,000	\$25,000
Subtotal Operations	\$115,000	\$140,000	\$170,000	\$170,000	\$170,000
Loan Repayment	\$30,000	\$30,000	\$30,000	\$30,000	\$30,000
TOTAL EXPENDITURES	\$238,765	\$263,765	\$293,765	\$293,765	\$293,765
REVENUE OVER (UNDER) EXPENDITURES	\$11,235	(\$13,765)	\$6,235	\$6,235	\$6,235

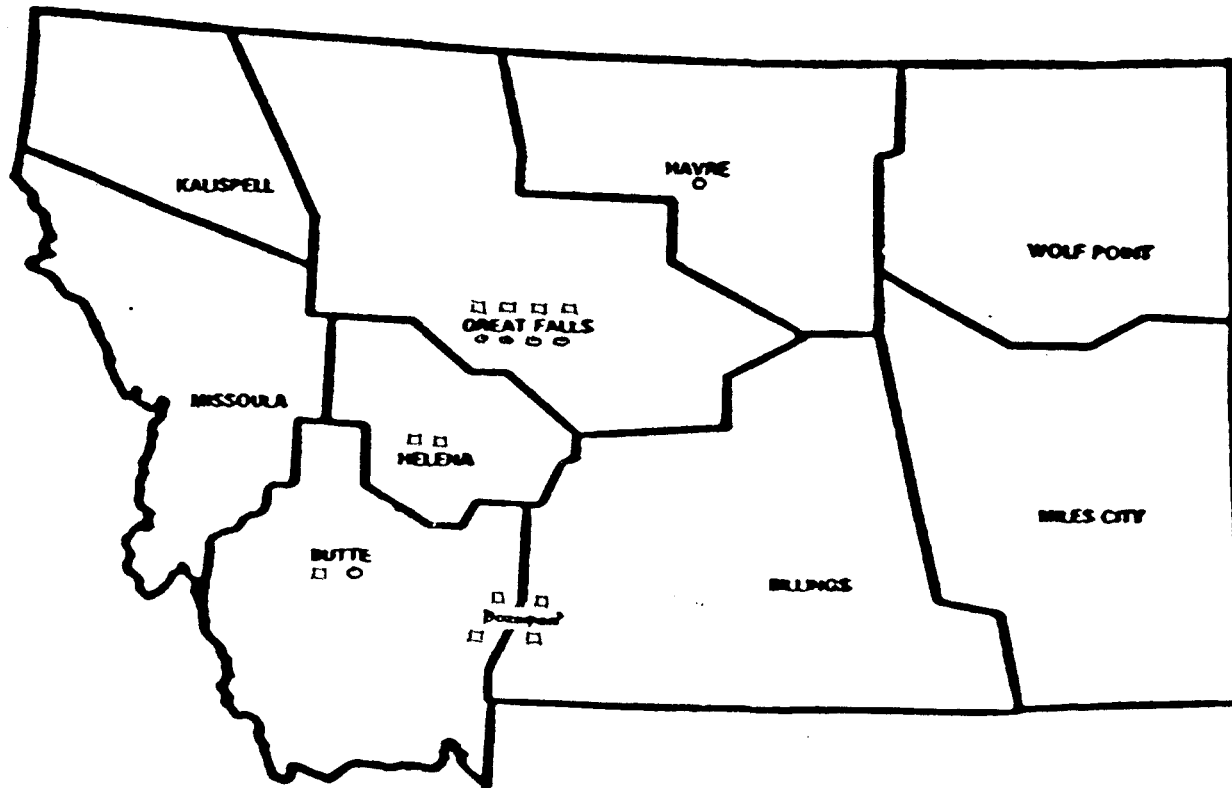
ESTIMATED FIVE YEAR CASH FLOW FY 90-94
FEDERAL SURPLUS PROPERTY PROGRAM

	FY 90	FY 91	FY 92	FY 93	FY 94
BEGINNING FUND BALANCE	\$0	\$11,235	(\$2,531)	\$3,704	\$9,939
PROFIT (LOSS)	\$11,235	(\$13,765)	\$6,235	\$6,235	\$6,235
ENDING FUND BALANCE	\$11,235	(\$2,531)	\$3,704	\$9,939	\$16,173

CALCULATION OF PERSONAL SERVICES COST:

POSITION	GR/ST	EST. ANNUAL COST
PROGRAM MANAGER	16/2	\$25,336
SEC/BOOKKEEPER	11/2	\$16,805
WAREHOUSE WORKER/ASST SCREENER	9/2	\$14,542
WAREHOUSE MGR/SCREENER	13/2	\$19,549
TOTAL SALARIES		\$76,232
EST. BENEFITS @ 23%		\$17,533
TOTAL PERSONAL SERVICES		\$93,765

MONTANA



Figures were compiled on 12 Research Assistants employed at McLaughlin Research Institute

- - 6 raised in Montana
- - 7 attended Montana University System
 - Great Falls - College of Great Falls
 - Helena - Carroll College
 - Butte - Montana Tech
 - Bozeman - Montana State University

SENATE FINANCE AND CLAIMS
 EXHIBIT NO. 4
 DATE 4-10-89
 BILL NO. HB 759

4

4a

SECRET - RINCE AND CLAIM
- UNIT NO. 42
DATE 4-10-89
BILL NO. HB 755

Education Background of McLaughlin Research Institute Employees

High School/College

Administrative Director

J. Maurice Browning

1965 - A.B. Political Science
Western Maryland College

Co-Scientific Directors

George Carlson, Ph.D.

1969 - A.B. - Univ. of Pennsylvania/Phil., PA
1976 - Ph.D. - Tufts University/MA
1975-77 - Postdoctoral - Univ. of Alberta/
Edmonton, Canada

Peter J. Wettstein, Ph.D.

1968-72 - A.B. - Princeton Univ., Princeton, NJ
1972-76 - Ph.D. - Univ. of NC, Chapel Hill, NC

Office Personnel

Wanda Forster

C. M. Russell H.S., G.F., MT

Georgean Wald

G.F. Central H.S., G.F., MT

Beverlee Zahara

Marian Heights H.S., Spokane, WA
College of Great Falls, G.F., MT

Senior Research Assistants

Scott Earley

Central H.S., E. Corinth, ME
1981-88 - B.S. & M.S. - Univ. of Maine, Orono,
ME

Tim Horan

G.F. Central H.S., G.F., MT
College of Great Falls, G.F., MT
MSU, Bozeman, MT
Mayo Clinic Graduate School of Medicine,
Rochester, MN
Rochester State Jr. College, Rochester, MN

Research Assistants

Stephanie Ambrose

Bishop Garcia Diego H.S., Santa Barbara, CA
B.S. - Loyola Marymount Univ.,
Los Angeles, CA
Graduate work - Univ. of Calif.,
Santa Barbara, CA

Shigeo Banks

Great Falls H.S., G.F., MT
1969-70 - B.S. - MSU, Bozeman, MT
1974 - College of Great Falls, G.F., MT

Page 2

Sylvia Banks	Cheyenne Central H.S., Cheyenne, WY Columbia Basin College, Pasco, WA Wenatchee Valley College, Wenatchee, WA B.S. - College of Great Falls, G.F., MT
Dana Barr	Great Falls H.S., G.F., MT 1984-88 B.A. - Carroll College, Helena, MT
Chris Ebeling	Liberty H.S., Bethlehem, PA 1983-85 - B.S. - College of Great Falls, G.F., MT
Wendy Nevala	Havre H.S., Havre, MT 1985-88 - Carroll College, Helena, MT College of Great Falls, G.F., MT
Lisa Palmer	Butte H.S., Butte, MT 1982-87 - Montana College of Mineral Science and Technology, Butte, MT 1987-88 - B.S. - MSU, Bozeman, MT
Mike Strausbauch	Great Falls Central & Great Falls H.S., G.F., MT 1974-79 - B.S. - College of Great Falls, G.F., MT
Anne Tewes	James Madison Memorial High School, Madison, WI 1977-81 - B.A. - Lawrence University, Appleton, WI 1983-86 - M.S. - MSU, Bozeman, MT
Kent Thomas, Ph.D. (part-time; currently Prof. of Biology, College of Great Falls)	Manhattan H.S., Manhattan, KS B.A. - Univ. of North Carolina Ph.D. - Kansas State Univ. Post-doctoral fellowship - Univ. of Iowa
Margaret Velardo	Holy Name H.S., Cleveland, OH B.S. - Univ. of Dayton, Dayton, OH AASc - Cuyahoga Community College, Parma, OH
 <u>Animal Care Personnel</u>	
Joe Amato	Great Falls H.S., G.F., MT Job Corp, Trapper Creek, MT
Russ Bartlett	Great Falls H.S., G.F., MT
Carolyn Burrows	Sparks H.S., Sparks, MD

Ex. #49

4/10/81

Page 3

Cindy Miller

C.M. Russell H.S., G.F., MT
College of Great Falls, G.F., MT

Dan Spragg

Great Falls Central H.S., G.F., MT

Rick Tanner

Great Falls H.S., G.F., MT

Part-time Students

Julie Luisi

Great Falls H.S., G.F., MT

Rachel White

Great Falls H.S., G.F., MT

Deaconess Research Institute, Inc.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 5
DATE 4-10-89
FILE NO. 759

April 10, 1989

To: Members of the Senate Finance and Claims Committee

Reference: House Bill 759



The Deaconess Research Institute is a nonprofit medical research organization recently formed by the Deaconess Medical Center of Billings. Major components of the Institute's program involve cancer and aging research. The Institute takes the position that the interests of the State of Montana would be best served if House Bill 759 were to be changed in two ways:

First, references to federally appropriated funds should be changed to federally and privately (non-state) appropriated funds to allow matching of funds obtained from private foundations and bequests. This is important because of the uncertainty of federal appropriations for medical research and because of the trend for an increasing fraction of the research dollar to be derived from other non-federal sources.

Second, consideration of the number of organizations devoted to medical research within Montana suggests that the \$2,000,000 figure may need to be increased.

Since many external funding sources require matching by local funds for construction and equipment costs, passage of this bill would certainly enhance the ability of Montana to attract the funding and high caliber medical scientists required to develop this desirable segment of the state's economy.

Thank you for your attention to this important matter.

John M. Jurist, Ph.D.
Scientific Director
Chief Operating Officer

Robert K. Snider, M.D.
Medical Director
Chairman of the Board of Directors

Deaconess Care
Corporation

2520 17th Street West
Suite B-3
Billings, Montana 59102

Telephone 406-255-8470

John M. Jurist, Ph.D. Scientific Director
Robert K. Snider, M.D. Medical Director

THE McLAUGHLIN RESEARCH INSTITUTE

1625 - 3rd AVENUE NORTH
GREAT FALLS, MONTANA 59401
PHONE (406) 452-6208

HB 759
4-10-89

April 10, 1989

Senator Pete Story
Chairman
Senate Finance and Claims Committee
Capitol Building
Room 108
Helena, MT 59620

RE: House Bill 759

Dear Senator Story:

As the average age of Americans continues to climb, more focus has been placed on finding solutions to some of our major health care problems. We are no longer willing to accept many problems as the inevitable result of the aging process. The most obvious result of that emphasis is increasing federal spending on health care and related research programs. The National Institutes of Health is the major supporter of biomedical research in this country, supporting about 85% of the research that is being done on health problems. In the current fiscal year, the NIH budget is approximately \$7.2 billion. Even in periods of fiscal constraint, the NIH budget has continued to grow. Since 1967, for example, the NIH budget has grown 1389%, from approximately \$400 million to the current level of \$7.2 billion. By any measure, this figure represents real growth, not just inflationary growth.

Today approximately \$5.6 billion of the NIH budget is awarded to universities, colleges, medical schools, and independent research institutes to support peer reviewed research. Of that \$5.6 billion, only about \$2.2 million, or 0.04%, is being awarded to researchers in Montana. Clearly, we should make a reasonable effort to get more of those dollars to Montana! If we can be successful, both we, as well as the federal government, will benefit.

Research grants and contracts contain two broad cost elements - direct costs and indirect costs. Direct costs are the monies required by the scientist to support the cost of salaries for the staff working on the project, supplies, various pieces of scientific equipment, etc. Indirect costs support the cost of administration of the program, including depreciation on the facilities, and the cost of utilities including insurance, etc. While the average indirect cost rate at private institutions is approximately 70 cents for each dollar of direct costs, our rate is only 28 cents on each dollar. Since the average NIH grant is \$130,000., the saving to the government is \$54,600 or \$36,400, as opposed to \$91,000 on each grant awarded. Similar savings would be realized on grants awarded to universities and colleges in Montana, as well. The money saved will

fund more research projects, having the potential to discover more answers to various health problems. Therefore, encouraging the development of biomedical research in Montana will benefit the state's economy, will give the science graduates of our colleges and universities the opportunities to use their education in Montana, and will encourage private biomedical research companies to locate in Montana.

The importance of the spin-off effect needs serious consideration. Wherever there is a substantial amount of government funded research, one will find emerging and well established private biotech enterprises. This can be demonstrated quite clearly if one looks at the biotech firms in the suburban Maryland and Virginia communities adjacent to the government research facilities in Bethesda, MD, Fort Dietrick in Frederick, Maryland, Palo Alto, CA, suburban Boston, the Research Triangle Park in North Carolina, etc.

One of the things we should be concerned about is the potential harm these facilities can do to our environment. Clearly we want to preserve our clean air, and clean water, because of their intrinsic value to us, as well as their value to the tourist industry in this state. Since these facilities come under strict federal regulation, they produce virtually no pollutants that might be released into the environment. Further, they pose no threat to the health of the community or the employees of these facilities.

Given the fact that we need to attract biomedical research activity to Montana, House Bill 759 represents the most fiscally responsible way to achieve that goal. NO STATE FUNDS will be expended unless and until an organization has attracted the requisite amount of federal funds to meet the matching requirement. As you know, the federal peer review system is very rigorous. Only the best scientific projects are funded. Therefore, federal funding of a project ensures that it is of top quality. Thus, the State does not have to spend a great deal of money evaluating proposals for these funds. Again, a responsible and cost effective move. Further, building a facility is a one-time cost, while finding the funding to support the program in that facility is an ongoing activity. Again, through this act, the State assumes NO continuing liability for the ongoing cost of the scientific programs to be located in these facilities.

When each of these points is considered, we feel that House Bill 759 provides the incentive to organizations that qualify to seek the requisite federal funds. Thus, House Bill 759 encourages the development of biotech activity without committing State resources "up front". Therefore, we support House Bill 759 and urge you to act favorably on it.

Sincerely,

J. Maurice Browning
Administrative Director

JMB:bz

Finance & Claims

4-10-89

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Ule McLeod	Hunter Co. Veto Committee	329	✓	
Ted Dodge	Headwaters R.C. & D.	329	✓	
Mary R. Miller	MT. Bur. of Mines & Geology	329	✓	
Ted Duaine	MT Bureau of Mines & Geology	329	✓	
Stuart Payge	State Auditor's Office	535	—	
Cheryl Fowler	State Auditor's Office	535	—	
Jim Johnston	Ante Silver Bow Govt	329	✓	
Chris Gallus	Battle Silver Bow Govt.	329	✓	
Mary Brown	Ante Jule	759	✓	
Sen J. Dwyer				
William F. Hunter, Jr.	McLaughlin Research Inst - GTF	759	✓	
Sen L. Noble	GF	759	✓	
MIKE LABRIOLA	GREAT FALLS AREA CHAMBER OF COMMERCE	759	✓	
Dick Simpson	GF HD #39	759	✓	
Ray Foster	Billings Chamber	759	✓	
Sen. D. Dwyer	MT Falls	759	✓	
LISA Palmer	Great Falls	759	✓	
Rep Susan Lind	HD 36 Gr	759	✓	
TED NEUMAN	School Dist #1 GTF	759	✓	
Bill Strizich, Rep Dist #41		759	—	
JOHN PHILLIPS RE #33		759	✓	
Ardi Aiken	Mayor - Great Falls	759	✓	
Cyrus Jones	Tr. Benton	759	✓	
Peter Mattstein	McLaughlin Research	759	✓	
Rep Jerry Nisbet	Great Falls Dist 35	759	✓	
Senator Tom Jacks	Big Sandy Spat 7	759	✓	

२७३

Finance & Claims

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

DATE 4-10-89

30/3

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By CHAIRMAN PETE STORY, on APRIL 12, 1989,
at 5:00 P.M.

ROLL CALL

Members Present: Senator Gary Aklestad, Senator Loren Jenkins, Senator Esther Bengtson, Senator Matt Himsl, Senator Paul Boylan, Senator Tom Keating, Senator Judy Jacobson, Senator Pat Regan, Senator Larry Tveit, Senator Fred Van Valkenburg, Senator Dennis Nathe, Senator Greg Jergeson, Senator Gerry Devlin, Senator Richard Manning, Senator Sam Hofman, Senator Lawrence Stimatz, Senator Ethel Harding, Senator Pete Story

Members Excused: Senator H.W. "Swede" Hammond

Members Absent: None

Staff Present: Clayton Schenck, LFA

Announcements/Discussion: None

EXECUTIVE ACTION

HB 354

Senator Regan moved to do pass HB 354. There was an appropriation of about \$150,000 for a legislative study of post-secondary education. The committee worked on the funding formula for the university system. There was a small sum of money left over and they would like to be able to complete the study. If it is not spent it becomes part of the general fund.

Senator Devlin asked how long the study would take.

Senator Regan asked the committee to wait for Senator Jacobson to arrive so she could explain.

HB 760

Senator Bengtson moved to do pass HB 760. She moved the amendment (Exhibit #1).

The question was called. The motion passed unanimously.

Senator Bengtson moved HB 760 as amended. The question was called. The motion passed 13-4 on a roll call vote.

HB 739

Senator Bengtson moved HB 739 do pass. The question was called. The motion passed unanimously.

HB 354

Senator Jacobson said the university funding study, last session, had about \$60,000 of carry over money. This bill would appropriate the remaining amount to continue the university funding study and also post-secondary education. She pointed out that the vo-tech centers needed quite a bit of work over the biennium. She said that some of the formula needed to be changed. Central payroll had to be worked out. The Legislative Finance Committee will look at how the money will be spent but there are other things that have to be monitored such as central payroll. They want to be able to coordinate this with Department of Administration, the Budget Office, Commissioners Office, and LFA. She said they may not need the entire amount but they are asked that they continue with the study and the remainder can be reverted to general fund.

The question was called. The motion passed 10-8 on a roll call vote.

HB 535

Senator Harding moved that HB 535 do pass. She explained that after checking with Dave Lewis he sent a paper on this. This is a requirement due to the Federal Catastrophic Act of 1988. She read part of the act (347). The act requires states to more fully regulate medicare supplemental insurance policies and current statutes do not allow the Insurance Commission to do this. Without passing this bill, the state would lose their authority to certify medicare supplemental insurance policies. She noted that the ramifications of that are unclear. The bill provides for a grade 12, step 2 employee plus office supplies and equipment and would be with the filing section of the Insurance Division. She said the bill addressed 3 areas of responsibilities for the State Auditors Office - review advertising, preparation of a buyers guide and oversight of additional compliance requirements.

Senator Keating asked if the FTE would become part of the base.

Senator Regan replied that it was a one time appropriation. She noted that this one time and was not to be built into the base. When the committee builds the budget next time this should not be there. (387) She asked that this be written in the LFA files.

Senator Hims1 shared an article from the Wall Street Journal concerning the biggest financial scandal in the history of medicare. The misspending was over 10 billion dollars of medicare funds for the past 6 years. He said it was well advised to take a check of what was going on here also.

The question was called. The motion passed unanimously.

HB 772

Senator Jenkins moved to do pass HB 772.

Senator Aklestad asked if this took 4 FTE to run the program.

Senator Story noted that this program was supposed to pay for itself through all the federal property that is brought in and distributed.

Senator Regan asked if there were any problem with the proprietary fund if this was money they make from sales.

Clayton Schenck replied that was correct. They collect a 6% fee based on the value of that item obtained and charge it back to the agencies.

Senator Van Valkenburg pointed out that this would be a huge exception from the requirement of repayment of loans within one year. This program would take 5 years for repaying a general fund loan.

The question was called. The motion failed 8-10 on a roll call vote.

HB 469

Senator Regan moved to do pass HB 469. She pointed out that the environmental groups, industry and the city are working together on this matter. The data is important and in fact has resulted in the building of a fertilizer plant next to one of the refineries.

Senator Aklestad pointed out that the Air Quality Division had 18.5 FTE now and if this was important they could

use one of these FTE for the work.

The question was called. The motion passed with 3 no votes.

HB 320

Senator Van Valkenburg moved do pass HB 320. He commented that the courts as a whole are far behind the twentieth century.

Senator Devlin made a substitute motion that this fund be amended down to \$100,000 for the biennial appropriation. He said the finances of the state should be considered before giving the full amount of money to this project.

Senator Hims1 noted that a lot of thought had gone into the figures and that the job may not get accomplished with the lower figure.

Senator Keating said the agency had already cut \$100,000 out of their request.

Senator Regan said that if they were going to do the job right they should be given the full appropriation. She pointed out that if there were money left over it would revert to the general fund.

The question was called on the substitute motion. The motion failed 9-9 on a roll call vote.

The question was called on the motion to do pass HB 320. The motion passed with 3 no votes.

ADJOURNMENT

Adjournment At: 6:05 P.M.



PETE STORY, Chairman

PS/dt

FCS412#2

DAILY ROLL CALL

FINANCE AND CLAIMS

COMMITTEE - 1989

DATE 4-12-89 p.m.

NAME	PRESENT	ABSENT	EXCUSED
Senator Gary Aklestad	✓		
Senator Loren Jenkins	✓		
Senator Esther Bengtson	✓		
Senator Matt Himsl	✓		
Senator Paul Boylan	✓		
Senator Tom Keating	✓		
Senator Judy Jacobson	✓		
Senator H.W. "Swede" Hammond			✓
Senator Pat Regan	✓		
Senator Larry Tveit	✓		
Senator Fred Van Valkenburg	✓		
Senator Dennis Nathe	✓		
Senator Greg Jergeson	✓		
Senator Gerry Devlin	✓		
Senator Richard Manning	✓		
Senator Sam Hofman	✓		
Senator Lawrence Stimat	✓		
Senator Ethel Harding	✓		
Senator Pete Story	✓		

1
SENATE FINANCE AND CLAIMS
- COMMITTEE NO. 1
DATE 4-12 pm
BILL NO. 760
Amendments to House Bill No.760
Reading Copy

For the Committee on Senate Finance and Claims

Prepared by LFA
April 11, 1989

1. Page 3, lines 15 through 21.
Strike: "If" on line 15 through "1991." on line 21.

ROLL CALL VOTE

FINANCE AND CLAIMS COMMITTEE #1
 DATE 4-12-89 BILL NO. HB 760 NUMBER 760
p.m AS Amended

NAME	AYE	NAY
Senator Gary Aklestad		✓
Senator Loren Jenkins		✓
Senator Esther Bengtson	✓	
Senator Matt Himsel		✓
Senator Paul Boylan	✓	
Senator Tom Keating	✓	
Senator Judy Jacobson		
Senator H.W. "Swede" Hammond		
Senator Pat Regan	✓	
Senator Larry Tveit	✓	
Senator Fred Van Valkenburg	✓	
Senator Dennis Nathe	✓	
Senator Greg Jergeson	✓	
Senator Gerry Devlin		✓
Senator Richard Manning	✓	
Senator Sam Hofman	✓	
Senator Lawrence Stimatz	✓	
Senator Ethel Harding	✓	
Senator Pete Story	✓	

TALLY

13 4

Debbie Thompson - 319
 Secretary

Pete Story
 Chairman

Motion:

Bengtson pass as amended -
passed

ROLL CALL VOTE

FINANCE AND CLAIMS

COMMITTEE

DATE 4-12-89 p.m. BILL NO. HB 354

NUMBER #2

NAME	AYE	NAY
Senator Gary Aklestad		✓
Senator Loren Jenkins	✓	
Senator Esther Bengtson	✓	
Senator Matt Himsel		✓
Senator Paul Boylan	✓	
Senator Tom Keating	✓	
Senator Judy Jacobson	✓	
Senator H.W. "Swede" Hammond		
Senator Pat Regan	✓	
Senator Larry Tveit		✓
Senator Fred Van Valkenburg	✓	
Senator Dennis Nathe	✓	
Senator Greg Jergeson		✓
Senator Gerry Devlin		✓
Senator Richard Manning	✓	
Senator Sam Hofman		✓
Senator Lawrence Stimatz	✓	
Senator Ethel Harding		✓
Senator Pete Story		✓

TALLY

10 8

Debbie Thompson - 319
Secretary

Pete Story
Chairman

Motion: Regan do pass ~~20~~ - Passed

ROLL CALL VOTE

FINANCE AND CLAIMS

COMMITTEE

DATE 4-12-89 p.m. BILL NO. HB 772 NUMBER #3

NAME	AYE	NAY
Senator Gary Aklestad		✓
Senator Loren Jenkins	✓	
Senator Esther Bengtson	✓	
Senator Matt Himsel		✓
Senator Paul Boylan		✓
Senator Tom Keating	✓	
Senator Judy Jacobson	✓	
Senator H.W. "Swede" Hammond		
Senator Pat Regan		✓
Senator Larry Tveit	✓	
Senator Fred Van Valkenburg		✓
Senator Dennis Nathe		✓
Senator Greg Jergeson		✓
Senator Gerry Devlin		✓
Senator Richard Manning	✓	
Senator Sam Hofman		✓
Senator Lawrence Stimatz	✓	
Senator Ethel Harding		✓
Senator Pete Story	✓	

TALLY

8 10

Debbie Thompson - 319
Secretary

Pete Story
Chairman

Motion: Jenkins move do pass - failed

ROLL CALL VOTE

Fail

FINANCE AND CLAIMS

COMMITTEE

DATE 4-12-89 pm. BILL NO. HB 320

NUMBER

Amendment on substitute no

NAME	AYE	NAY
Senator Gary Aklestad	✓	
Senator Loren Jenkins	✓	
Senator Esther Bengtson	✓	
Senator Matt Himsel		✓
Senator Paul Boylan	✓	
Senator Tom Keating		✓
Senator Judy Jacobson		✓
Senator H.W. "Swede" Hammond		
Senator Pat Regan		✓
Senator Larry Tveit	✓	
Senator Fred Van Valkenburg		✓
Senator Dennis Nathe		✓
Senator Greg Jergeson		✓
Senator Gerry Devlin	✓	
Senator Richard Manning		✓
Senator Sam Hofman	✓	
Senator Lawrence Stimatz		✓
Senator Ethel Harding	✓	
Senator Pete Story	✓	

TALLY

9 9

Debbie Thompson - 319
Secretary

Pete Story
Chairman

Motion:

Devlin ~ substitute motion

Failed